

LUMMI INDIAN BUSINESS COUNCIL

2616 KWINA ROAD • BELLINGHAM, WASHINGTON 98226 • (360) 384-1489

**Testimony of the Honorable Henry M. Cagey
Lummi Nation Chairman
On the FY 2011 Appropriations for the
Bureau of Indian Affairs and Indian Health Service**

Good Afternoon; I want to thank Chairman James Moran and the Committee members for the opportunity to share with you the financial and legislative priorities of the Lummi Nation for 2011 for the Department of the Interior; Bureau of Indian Affairs and for the US Indian Health Services.

The Lummi Nation, is located on the northern coast of Washington State, and is the third largest tribe in Washington State serving a population of over 5,200. The Lummi Nation is a fishing Nation. We have drawn our physical and spiritual sustenance from the marine tidelands and waters that surround us for hundreds of thousands of years. Now the abundance of wild salmon is gone. The remaining salmon stocks do not support commercial fisheries. Our fishers have trying to survive with shellfish products. In 1999 we have 700 licensed fishers who supported nearly three thousand (3,000.) tribal members. Today, we have about 523 remaining. This means that over 200 small businesses in our community have gone bankrupt in the past eleven (11) years. This is the basic inescapable reality of the Lummi Nation. We are the last hunter/fisher/gatherer society surviving within the contiguous United States. We can no longer survive as fishers, without assistance.

Lummi Nation Appropriation Requests - Bureau of Indian Affairs

- +\$12 million - Increase in funding for Hatchery construction, operation and maintenance funding directed to meet the needs of fisheries needs consistent with declared disasters.
- +\$5million (Nationally) Increase the funding for the BIA General Assistance for emergency services for tribes operating under emergency declarations.

Indian Health Services

- Increased contract health services funding be available to Northwest Regional Tribes, which are not served by an Indian Health Services Hospitals.
- +\$200,000. To support direct intervention with the Lummi Nation to support rapid HIV testing and diagnosis and treatment.

Committee Direction Requests

- Direct the Bureau to recognize fisheries economic disaster declarations and work with the Lummi Nation to insure that direct relief needs of its fishers covered under the Department of Commerce Disaster Declaration are met through General Assistance Emergency Assistance Funding.

- Direct the Bureau of Indian Affairs to work with Lummi Nation to insure that its needs related to the Salomon disaster are met through increased hatchery construction, operations and maintenance funding.
- Direct the Bureau Branch of Roads to support the Committee request that the Federal Lands High Way Project reserve \$6.million for the Lummi Nation Slater Road Elevation Project.
- Direct the Department of the Interior to fully fund the Office of Indian energy and Economic Development, Workforce Development Division to continue its job training/development work that has results in jobs.

Our people have problems and needs but we also have solutions. Today I am presenting a coordinated set of proposals to address the prolonged economic and cultural disaster imparting our people through the loss of our sockeye salmon. Starting over ten (10) years ago in 1999. In 2008, the Department of Commerce reissued the disaster declaration (See also –Congressional Research Services – CRS Report to Congress, Commercial Fishery Disaster Assistance, (RL-34209) May 2, 2008)), and we now seek ways to turn this scenario around to have a more positive outcome.

Our strategy is to consolidate our native and scientific knowledge of fish biology, behavior and management into the Northwest Indian Marine Education and Research Center for Excellence. (NICMERE). Collecting our professionals and traditional practitioners and field worker into a team to plan, design, finance and construct and operates create aquaculture and hatcheries facilities and programs. The same group would instruct and train aquaculture and hatcheries workers needed by theses facilities, through Northwest Indian College. Aquaculture/hatcheries facilities and operations are the only way to insure the salmon fisheries that was solemnly secured in 1855 by our fathers and yours, large enough to support our families and our way of life.

Our goal is to increase fish returns by improving aquaculture and hatchery production and creates a reliable, sustainable resource to salmon fishers by increasing enhancement. Additionally, we seek to raise the value of these harvests through advanced marketing, the introduction of a fisher's co-operative, and grow-out operations for shellfish products.

Lummi Nation Specific Requests - Bureau of Indian Affairs

+\$5million (Nationally) Fisher's Disaster Assistance funding – Lummi Nation is requesting funding to support emergency relief services for our fishers. This assistance is needed to help fishers make the transition from sockeye salmon to other salmon species and other commercial fishery resources. Lummi Nation is requesting the Committee provide the BIA Welfare Assistance Program an additional funding to address the Lummi Nation Fishers and West Coast Fisherman impacted by economic fisheries disaster.

+\$12million - Salmon/Shellfish Hatchery - The Lummi Nation currently operates three (3) salmon hatcheries and one (1) shellfish hatchery that support tribal and other fisheries in the region. The tribal hatchery facilities were originally constructed in the early 1970's. Predictably some of the original infrastructure needs to be repaired or replaced as it approaches the end of its useful life and other infrastructure needs to be developed or modified to ensure compliance with the Clean Water Act and/or the Endangered Species Act. Lummi Nation Fish Biologists estimate that these facilities are now operating at 40% of their productive capacity. While the Lummi Nation recognizes and appreciates

the \$2 million provided in 2010 for expanded hatchery funding these funds were distributed nationally without regard to the extreme need of the Lummi Nation and other Tribes impacted by the West Coast Salmon disaster. The 2010 funding must be maintained and expand further consistent with the needs of Tribes covered by existing disaster declarations.

Lummi Salmon Hatchery – \$2,200,000.

\$720,000 Hatchery Intake – South Fork Nooksack Chinook Recovery program replace intake system that has high O&M and often fails.

\$625,000 Large Pond Improvement – increase annual production capacity.

\$855,000 New Raceways – replace originally constructed infrastructure that is deteriorating and falling apart.

Lummi Salmon Hatchery - \$5,360,000

Nooksack River pump station - This will increase the production capacity of Lummi Bay hatchery by improving water pumping capacity and resource.

Lummi Shellfish Hatchery - \$570,000

Multiple operation & maintenance issues for increasing production capacity in areas of feed, building insulation, heating & cooling systems, increase grows out tank space, results in increased seed production.

Lummi Pond Tide Gates Improvements - \$3,510,000

This project rehabilitates current shellfish hatchery to optimize production capabilities. Increased shellfish seed production increases enhancement activities on Lummi tidelands to create jobs for tribal shellfish harvesters and increase sales to the West Coast shellfish industry to create jobs for growers and businesses.

Planning/Transportation - Bridge - Project

+\$6 million – Slater Elevated Road Project *reserved for the Lummi nation through the Federal Land Highway Programs funneled through the Bureaus Indian Reservation Roads Program*

Project Description: The Lummi Nation is partnering with the Federal Emergency Management Agency and Whatcom County to elevate the eastern approach to the Slater Road Bridge over the Nooksack River. This section of Slater Road is frequently flooded by Silver Creek, which runs parallel to the Nooksack River. The project is an extension of the Slater Road Bridge over Sliver Creek, which is a salmon spawning stream.

Need for the Project: When this section of Slater Road is flooded, access to the Lummi Reservation, Lummi Island, the Cherry Point heavy impact industrial zone, and the City of Ferndale are severely limited. Most years these limitations last for days at a time. The impact threatens public health and safety and has substantial negative economic impacts for the retail, commercial and manufacturing businesses in the area.

Matching Funding: Lummi Nation has secured a \$3 million in project matching funds for the project through the Pre-Disaster Mitigation Program (the maximum grant allowable).

Lummi Nation Specific Requests - INDIAN HEALTH SERVICE

Request for Contract Health Funds Allocation Formula Methodology

Lummi Nation and all Tribes located in the Portland Area are not served by Indian Health Services Hospitals. We are totally dependent on the IHS Contract Health Care Program to support hospitalization and any health care measure performed outside of our limited

ambulatory health care clinic. The Lummi Nation has endured a shortage of contract health care funds for many years due to constantly increasing health care and health care administrative costs and a budget that does not keep pace. The Lummi Nation is requesting that the Committee direct the IHS to develop an allocation plan for contract health care funds that recognizes that Tribes, not served by an IHS Hospital incur greater contract health costs than those tribes who have an Indian Health Services Hospital.

+ \$200,000 Direct funding to support Community-based Aids/HIV Rapid Testing
Lummi Nation is experiencing an epidemic of black tar heroin among its addicted members. This has increased the risk in our community for contracting HIV. We are seeking this funding on an emergency basis.

National and Self-Governance Requests and Recommendations:

- **BIA Requests:**
 - **+ \$21.4 Million for Johnson O'Malley Program;**
 - **+ \$13.6 Million for Housing Improvement Program added to Tribal base programs;**
 - **+\$9 million General Increase to BIA Tribal Priority Allocation for inflationary and fixed costs;**
 - **Provide \$64 million increase for BIA Contract Support Cost (CSC), including Direct CSC; Provide \$5 million increase in the Indian Self-Determination (ISD) Fund;**
 - **Provide 100% of Fixed Costs (uncontrollable), including Tribal Pay Costs; and ,**
 - **Increase Office of Self-Governance Budget to fully staff to meet the needs of the increase in Tribes entering Self-Governance**
- **IHS Requests:**
 - **Provide \$474 million for IHS mandatory, inflation and population growth increase to maintain existing health care services;**
 - **\$330 million increase for Contract Health Services (CHS);**
 - **\$122 million increase for IHS to fully fund Contract Support Cost (CSC), including Direct CSC; and,**
 - **Increase \$5 million to the Indian Health Service (IHS) Office of Tribal Self-Governance**

Local/Regional Requests and Recommendations

- **Affiliated Tribes of Northwest Indians**
- **Northwest Portland Area Indian Health Board**
- **Northwest Indian Fisheries Commission**

Natural Resources

In closing the Lummi Nation fully supports the Hatchery Reform Committee that is being set up in cooperation with University of Washington through the efforts of the Native American Fish and Wild life Society. We ask the Committee to become aware and supportive of this effort to increase our technical knowledge of hatchery development, operations, which is critical to the survival of our fishing communities.

I appreciate the opportunity to share the fiscal year 2011 budgetary priorities of the Lummi Nation.

**TESTIMONY OF DOUGLAS NASH, DIRECTOR
CENTER FOR INDIAN LAW AND POLICY
INSTITUTE FOR INDIAN ESTATE PLANNING AND PROBATE
SEATTLE UNIVERSITY SCHOOL OF LAW
BEFORE THE
U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED AGENCIES
MARCH 23, 2010**

The fractionated ownership of Indian allotments created by the General Allotment Act of 1887 (GAA) has been estimated to cost the Department of the Interior approximately \$432 million annually to manage.¹ These costs will continue to increase each year if decisive action is not taken to appropriate the funds authorized in the American Indian Probate Reform Act (AIPRA).²

Over time, the system of allotments established by the GAA and subsequent intestate inheritance by multiple generations of descendants has resulted in the fractionated ownership of Indian lands. As original allottees died, their heirs received an equal, undivided interest in the allottees' lands, and so it went for generations. As of 2005, there were four million owner interests in the 140,000 tracts of individually owned trust lands, a situation the magnitude of which makes management of trust assets extremely difficult and costly.³ These four million interests will expand to eleven million interests by 2030 unless major changes are made to address the problem.⁴

The Department of the Interior is responsible for maintaining title records of all trust land interests and managing income derived from the leases of trust land interests. Income must be allocated among all of the owners of undivided interests in each allotment. In some instances, the common denominator required to make this calculation extends 26 digits.⁵ Income is maintained in federal Individual Indian Money (IIM) accounts for the individual owners, regardless of the size of their interest. In 1987, for example, one allotment had 439 owners with the smallest heir receiving \$.01 every 177 years and receiving \$.000418 of the \$8,000.00 appraised value if that heir's interest were sold⁶. Ross Swimmer testified that the BIA's administrative costs for this parcel were estimated at \$17,560 annually.⁷

¹ Majel Russell, *Historical Background to Fractionated Ownership of Indian Trust Lands*, Intertribal Monitoring Association Presentation PowerPoint, Northwest Regional Meeting, November 21, 2008

² 25 U.S.C. § 2206(f)

³ Department of the Interior, Office of the Special Trustee for American Indians, Budget Justification FY 2005

⁴ Testimony of David J. Hayes, Deputy Secretary of the Interior, before the Committee on Natural Resources, United States House of Representatives Hearing on the Proposed Settlement of Cobell v. Salazar, March 10, 2010.

⁵ Testimony of Ross O. Swimmer, Special Trustee for American Indians, United States Department of the Interior, before the Committee on Resources, United States House of Representatives Hearing on S. 1721, The American Indian Probate Reform Act of 2004. June 23, 2004

⁶ *Id.* Swimmer citing *Hodel v. Irving*, 481 U.S. 704 (1987)

⁷ *Id.*

The probate of these fractionated trust assets is also an expensive function of the Department of the Interior. It was estimated that in 2008 an average probate cost approximately \$7,800, and approximately 3,500 Indian owners of trust assets die each year.⁸

To address fractionation, Congress amended the Indian Land Consolidation Act with the passage of AIPRA in 2004.⁹ While AIPRA ends the fractionation of the already highly fractionated interests the GAA continues to fractionate all allotment interests of 5% or greater.¹⁰ The drafters of AIPRA recognized this problem and provided authorization and appropriations for estate planning to further reduce or stop fractionation.¹¹ Without that funding, the allotted land base will continue to fractionate over generations, creating millions of new interests that will require substantial management and add significant costs to the Department.

Who We Are: The Institute for Indian Estate Planning and Probate (Institute) is part of the Center for Indian Law and Policy at Seattle University School of Law (www.indianwills.org). The Institute was established in August, 2005, and is the only national, non-profit organization developing projects which deliver free estate planning legal services to trust land owners and tribes nationally. With the mission of assisting Indian people, the Institute develops projects that provide free estate planning services to trust land owners; provides training to tribal members, governmental officials and the legal community on the provisions of AIPRA, estate planning and the probate process; and serves as a clearing house that provides information via our website and published materials. The Institute has been uniquely successful in achieving those goals.

A Proven Success: In 2005, the Institute was the recipient of a one year, \$500,000 Department of Interior Pilot Project contract and the results clearly indicate that estate planning is a highly effective tool in reducing and eliminating fractionation.¹² In a short nine month contract cycle, the pilot project served more than 1,100 clients, and at the end of the contract, 586 individuals remained on a waitlist. A subsequent audit by the BIA concluded our estate planning project reduced fractionation of Indian lands; prevented the creation of 4,640 new interests; removed 679 interests from the probate process entirely; and 83.5% of the wills executed reduced fractionation.¹³

The Institute has had projects in Washington, Oregon, Idaho, Montana, South Dakota, Minnesota and New Mexico. These projects utilize personnel who are specially trained on AIPRA, Indian land history, and in counseling Indian clients on ways to reduce fractionation of their lands during their life time and with an estate plan. The free estate planning services include wills, durable powers of attorney, health care directives, assistance with gift deeds, and land sales to tribes. Our project models vary depending upon need and available funds. We have developed a number of successful project models using law student interns and paralegals; private and legal services attorneys. We have established pro bono projects, and at Seattle University School of Law, we created the first Indian Trust and Estates clinical course in the nation. In total, our

⁸ *Id.*

⁹ 25 U.S.C. §§ 2201 - 2201

¹⁰ 25 U.S.C. § 2206(a)(2)(B)

¹¹ 25 U.S.C. § 2206(f)(4)

¹² Supplemental Audit Report under Task Order SEA-0004443 under AIPRA FY 2006 AIPRA Implementation Project, Phase II, Estate Planning Services Auditor, September 15, 2007

¹³ *Id.*

projects have provided community education to over 14,000 Indian landowners, served over 3,300 clients, executed approximately 1,400 wills and 1,100 other estate planning documents and successfully reduced fractionation in approximately 87% of the estate plans.

AIPRA Funding: I appeared before the Committee in 2009 to request your assistance in providing full funding to implement AIPRA. We are grateful that the Conference Report on H.R. 2996, the Department of the Interior and Related Agencies Appropriation Act for 2010 directed the BIA to utilize funds that were included in the OIP account and the Indian Land Consolidation account for estate planning assistance as provided for under Section 207(f) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)). This section of AIPRA authorizes the Secretary to enter into contracts with non-profit entities to provide estate planning and probate services to owners of fractionated interests in allotments. Over the last several months, we have attempted to work with the Department to determine how the available funds would be used to carry out the implementation of AIPRA, but we have not had any success. To our knowledge, the BIA has not initiated any effort to enter into contracts with non-profit entities to provide estate planning and probate services in 2010.

We note that the Department's budget request for 2011 reports that the [BIA] "is actively engaged in implementing" AIPRA, including the provision of probate services.¹⁴ The request for 2011 is for more than \$13 million and includes 159 FTE. Virtually all of the funds and FTE appear to be directed at coordination with the Office of Hearings and Appeals in probate proceedings. In addition, the 2011 budget request includes \$1 million for 5 new FTE to implement AIPRA and the Indian Land Consolidation Act. The BIA proposes to use these funds and FTE to provide:

"educational information regarding the authorized provisions within AIPRA, information on lifetime transfers such as consolidation agreements through gifts, exchanges and family trusts, through probates and forced sales. It will also include information to tribes on monetization and in writing probate codes. This will be accomplished by creation and dissemination of brochures (in English and native languages), partnering with tribal colleges and tribal organizations, conducting community meetings and via public news sources such as local newspapers, radio and the internet."¹⁵

The BIA also plans to use the funds and FTE to:

"pursue partnerships with Indian organizations, various Indian land clinics, private attorneys, and legal aid groups to further research cost effective actions regarding estate planning. The initial push is to help more landowners complete estate planning and will drafting."¹⁶

The Department's proposed budget, while laudable, will not meet the needs of Indian Country nor will it reduce fractionation or probates and, consequently, will not reduce related costs. The

¹⁴ Budget Request for the Bureau of Indian Affairs for 2011 at IA-RES-7.

¹⁵ Id. at IA-ILC-3 and 4.

¹⁶ Id. at 4. (Emphasis Added)

2011 BIA budget request does not provide any detail on what level of funding may be directed toward estate planning and will drafting. With all due respect, we do not believe that there is a need for research regarding estate planning and will drafting. It has been seven years since AIPRA's enactment and there is an acute and urgent need for action to fully implement its provisions. Through our various projects, we already know the most cost effective means of providing estate planning services to Indian clients. We know that face-to-face consultations are necessary with clients for effective estate planning and that those meetings often take place in a client's home or hospital room. We know that with informed counsel, clients will often choose plans that avoid fractionation and even probate. We know that Indian people often need wills that are valid under tribal and state as well as federal law, and we provide that service. We agree that education is important. That is why our programs have reached over 14,000 Indian land owners in the last five years and our website is designed to provide information specifically to Indian land owners, tribal leaders and attorneys..

Cost Savings: For each interest that estate planning reconsolidates or removes from the probate process entirely through gift deed or tribal sale, the government will save money. Costs will continue to increase with the exponential growth of fractionation.

Appropriation Request: Year 1 - \$750,000.00 – Personnel, travel, office and administrative costs; continue and expand the summer intern project; reestablish project for South Dakota Tribes.

Year 2 - \$1,000,000.00 – Personnel, travel, office and administrative costs; maintain existing projects, reestablish program for Minnesota tribes and establish Indian Estate Planning Clinics at 5 law schools.

Year 3- \$1,500,000.00 – Personnel, travel, office and administrative costs; maintain existing projects, continued expansion of summer program and establish projects for Navajo Tribe and Montana tribes,

Year 4 - \$1,750,000.00 – Personnel, travel, office and administrative costs; maintain existing projects, establish 5 new clinical programs and a project for Arizona tribes.

Year 5 – \$2,250,000.00 – Personnel, travel, office and administrative costs; maintain existing projects and establish projects to serve scattered reservations with estate planning needs.

Contact Information:

**Douglas Nash, Director
Center for Indian Law and Policy
Institute for Indian Estate Planning & Probate
Seattle University School of Law
901 12th Avenue, Seattle, WA 98122
Phone: (206) 398-4277
Email: dnash@seattleu.edu**



LOWER ELWHA KLALLAM TRIBE

ᏊᏊᏊᏊ ᏊᏊᏊᏊ ᏊᏊᏊᏊ ᏊᏊᏊᏊ "Strong People"
2851 Lower Elwha Road Port Angeles WA 98363

Testimony of The Honorable Frances G. Charles
Chairwoman, Lower Elwha Klallam Tribe
Before the House Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
For the Bureau of Indian Affairs and the Indian Health Service FY 2011 Budgets
March 23, 2010

Good morning Chairman Moran, Congressman Dicks representing my district in Port Angeles, Washington, and other distinguished members of this Committee. My name is Frances Charles, Chairwoman of the Lower Elwha Klallam Tribe. I thank you for the opportunity to testify on priority funding for the delivery of basic services to the Elwha people, and in support of increased appropriations for Native programs in the FY 2011 budgets for the Bureau of Indian Affairs and Indian Health Service Budgets.

Tribal Specific Requests

1. \$15 Million for Lower Elwha Klallam Land Acquisition and Economic Development
2. \$458,000 for Lower Elwha Klallam Tribal Historic Preservation

Regional Support Requests

1. Support the Request of the Affiliated Tribes of Northwest Washington
2. Support the Request of the Northwest Portland Indian Health Board
3. Support the Request of the Northwest Indian Fisheries Commission

National and Self-Governance Support Requests

1. BIA - Provide \$82.9 million General Increase to BIA Tribal Priority Allocation for inflationary and fixed costs
2. BIA - Provide \$64 million increase for BIA Contract Support Cost (CSC), including Direct CSC
3. BIA - Provide \$5 million increase in the Indian Self-Determination (ISD) Fund
4. BIA - Provide 100% of Fixed Costs (uncontrollable), including Tribal Pay Costs
5. BIA - \$12 Million for National Historic Preservation Officer Program
6. Increase Office of Self-Governance Budget to fully staff to meet the needs of the increase in Tribes entering Self-Governance;
7. IHS - Provide \$474 million for IHS mandatory, inflation and population growth increase to maintain existing health care services
8. IHS - \$330 million increase for Contract Health Services (CHS)
9. IHS - \$122 million increase for IHS to fully fund Contract Support Cost (CSC), including Direct CSC
10. IHS - Increase \$5 million to the Indian Health Service (IHS) Office of Tribal Self-Governance

The Elwha Klallam Tribe supports the FY 2011 Budget requests NCAI and NIHB.

Tribal Specific Request Narrative

\$15 Million for Lower Elwha Klallam Land Acquisition and Economic Development - In 1992 Congress enacted the Elwha River Ecosystem and Fisheries Restoration Act (P.L. 102-495). The law mandated the removal of the Elwha and Glines Canyon dams from the Elwha River. Since then, the U.S. Government has committed itself to Elwha River restoration and to addressing the public health and safety, environmental, and economic development issues associated with the dam removal. Dam removal is scheduled to begin in 2011. The law states:

“SEC. 7. Tribal Land Acquisition and Development.

(a) After the Secretary makes the determination to remove the dams and actually acquires the Projects and funds are appropriated for such conveyance and removal, the Secretary is authorized to acquire by purchase, and hold in trust in reservation status for the benefit of the Lower Elwha Klallam Tribe, lands in Clallam County, Washington, for housing, economic development, and moorage for the Tribal commercial fishing fleet.

(b) There is authorized to be appropriated an amount not to exceed \$4,000,000 to carry out the land acquisition purposes of this section.”

Congress authorized \$4 million for land purchases for the Tribe to make amends for damages to tribal fisheries. The National Park Service (NPS), acting as the lead agency for the federal dam-removal project, decided that its mandate did not include addressing any appropriation to the Tribe. In the 18 years since the Act was passed the project has moved forward, but *without any appropriations* for tribal land acquisition. There has been a significant increase in property prices since 1992. For this reason, and to affect the intended purposes of the 1992 Act, the Tribe has repeatedly requested that Congress increase the initial \$4 million authorization to \$15 million so that the Tribe could begin the necessary activities identified in the Act before dam removal commences next year.

Acquisition of land was part of the broader Elwha River Ecosystem and Fisheries Restoration Act which will restore Elwha River fisheries and permit the Lower Elwha Klallam Tribe to resume its historic livelihood of salmon fishing in the Elwha River, which the two 100 year-old dams had rendered impossible. The provision of the law for land acquisition was and is necessary to mitigate the disruptive effects of the dam removal process and to provide the Tribe with land for much needed housing and to pursue economic development that will generate funding to build upon the tribal infrastructure and strengthen the economy of the reservation.

Of the \$15 million dollar request, the Tribe would immediately use \$2 million to purchase and improve 12 acres centrally located on Highway 101 on the east shore of Lake Aldwell, thereby gaining a timely opportunity to develop land that is contiguous to the Project Lands that the Tribe also seeks to acquire.

Improvements would facilitate conversion of the parcel from private to public use, including: road access development, potable water, wastewater treatment, parking, utilities, trail development and facility upgrades. Acquisition and development of this site provide the unique setting for a world-class interpretative center to foster research, educational outreach, and a showcase for ecosystem restoration that will follow removal of the Elwha Dams.

\$458,000 for Tribal Historic Preservation - The Lower Elwha Tribe is located in an area that is extremely rich in cultural resources and significant sites. We have been involved in the protection and restoration of the Tse-whit-zen village and cemetery site in downtown Port Angeles, where we have re-interred the remains of over 300 of our Klallam ancestors, the largest single site that has been unearthed west of the Mississippi River. Other sites of equal or greater significance exist in Port Angeles and surrounding areas. One such site is the Y'innis village site on Ennis Creek, which flows through the site of an abandoned lumber mill that is currently undergoing cleanup. The Tribe is involved in overseeing the cleanup of that site, the restoration of Ennis Creek, and the protection of the village site.

The Tribe must also spend ever-increasing time responding to federal agency requests for consultation under Section 106 of the National Historic Preservation Act (NHPA) of 1966. As you know, the NHPA declared that the preservation of our irreplaceable heritage was in the Nation's interest and agencies must consider the effects of their undertakings on historic properties in consultation with affected Tribes. This consultation is at the heart of the federal-tribal relationship, but without adequate funding support for a Tribal Historic Preservation Office, the consultation requirement functions as an unfunded mandate. In addition, the Tribe's activities associated with its rights under the 1990 Native American Graves Protection and Repatriation Act (NAGPRA) have intensified in a number of areas, including the completion of summaries and inventories of remains and objects. In order to protect its cultural heritage and its rights and opportunities under NHPA and NAGPRA, and to ensure that the major sites in the Port Angeles area are protected from development and natural resources restoration activities, the Tribe needs a basic THPO program. Such a program requires at a minimum a qualified staff that meets the Secretary of Interior Standards as an Archeologist or Cultural Resource Director that can review the projects scheduled for implementation and provide Tribal comment. This funding request will provide the Tribe with that basic program and assist in averting another disaster like the one that occurred at the Tse-whit-zen site.

National and Self-Governance Support Requests Narrative

1. ***BIA - Provide \$82.9 million over the FY 2010 enacted level for General Increase to BIA Tribal Priority Allocation for inflationary and fixed costs:*** This funding has steadily eroded due to inflation and population growth. The effects of rising costs of travel, equipment, supplies, and purchased services have been compounding for years while the Native American population has increased at 1.6% per year. Since Tribes have the flexibility to use TPA funds to meet the unique needs of their individual communities, they are the main resources for Tribes to exercise their powers of Self-Determination and Self-Governance.
2. ***BIA - Provide \$64 million increase for BIA Contract Support Cost (CSC), including Direct CSC: Full funding of CSC covers the fixed overhead costs that a Tribe must incur to operate a BIA program or facility as required under the Indian Self-Determination and Education Assistance Act. When CSC is not fully funded, Tribes are forced to utilize limited direct program services dollars or Tribal resources to cover these shortfalls. We respectfully urge the Subcommittee to fund these essential services and not permit Indian agreements to remain the only government contracts that are not fully funded.***
3. **BIA - Provide \$5 million increase in the Indian Self-Determination (ISD) Fund**
4. **BIA - Provide 100% of Fixed Costs (uncontrollable), including Tribal Pay Costs: The 2011**

President's budget does not include an increase for anticipated fixed costs, including pay and benefit costs. Without this funding, Tribal programs will be forced to absorb these uncontrollable fixed costs. *We respectfully urge the Subcommittee to provide annual increases for Tribal pay and fixed costs to avoid progressive program declines.*

5. **BIA - \$12 Million for National Tribal Historic Preservation Officer Program (THPO):** The President's proposed level of \$8 million in FY 2011 will continue to increase the shortfall that THPOs are experiencing, yet the program continues to expand. We further recommend that future program expansion be funded with increased appropriations for the program in order not to impact the funding of existing THPO programs.
6. **IHS - Provide \$474 million for IHS mandatory, inflation and population growth increase** to maintain existing health care services: Mandatory costs increases are necessary to maintain the current level of services. These "mandatories" are unavoidable and include medical and general inflation, pay costs and population growth. Maintaining current services is a fundamental budget principle. Failure to do so would result in cuts in health care and delivery. We estimate the current services need in FY 2011 is \$474 million.
7. **Increase Office of Self-Governance Budget to fully staff to meet the needs of the increase in Tribes entering Self-Governance;**
8. **IHS - \$330 million increase for Contract Health Services (CHS):** Tribes have recommended that an increase of \$330 million is needed for CHS funding. At present, less than one-half of the CHS need is being met, leaving too many Indian people without access to necessary medical services. This level will allow those Tribes who are not served by an IHS Hospital to provide health care services at the same level as those Tribes who are served by an IHS Hospital.
9. **IHS - \$122 million increase for IHS to fully fund Contract Support Cost (CSC), including Direct CSC:** This year's FY 2011 request of a \$45.8 million increase for Contract Support Costs (CSC) continues a sad chapter of neglect for Indian Self-Determination. For FY2011, the estimated shortfall is \$122 million. The present shortfall creates a disincentive for Tribes to pursue Self-Governance compacts, and diminishes available health care funding as Tribal budgets must absorb the shortfall amounts.
10. **IHS - Increase \$5 million to the Indian Health Service (IHS) Office of Tribal Self-Governance:** As of 2010, there are 330 Self-Governance (SG) Tribes managing approximately \$1.2 billion in funding. This represents 57% of all federally-recognized Tribes and 33% of the overall IHS funding. The Office of Tribal Self-Governance (OTSG) supports Tribes operating programs under the Tribal Self-Governance Amendments of 2000. The Self-Governance process serves as a model program for federal government outsourcing, which builds Tribal infrastructures and provides quality services to Indian people.

Thank you for this opportunity. If there are questions I am available to respond.

**TESTIMONY OF THE PUYALLUP TRIBE OF INDIANS BEFORE THE
HOUSE APPROPRIATIONS SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND
RELATED AGENCIES
FISCAL YEAR 2011**

Mr. Chairman, my name is **David Bean**, Tribal Councilmember of the Puyallup Tribe of Indians. We thank the Committee for past support of many tribal issues and in your interest today. We share our concerns and request assistance in reaching objectives of significance to the Congress, the Tribe, and to 25,000+ Indians (constituents) in our Urban Service Area.

U.S. Department of Interior - Bureau of Indian Affairs - The Puyallup Tribe submits the following detailed written testimony to the U.S. House Subcommittee on Interior, Environment and Related Agencies. We look forward to working with Congress to insure that funding levels for programs necessary for the Puyallup Tribe to carry-out our *sovereign responsibility of self-determination and self-governance* for the *benefit of the 4,004 Puyallup tribal members and the members from approximately 355 federally recognized Tribes who utilize our services* are included in the F.Y. 2011 budget.

Puyallup Nation Law Enforcement: The Puyallup Reservation is located in the urbanized Seattle-Tacoma area of the State of Washington. The 18,061 acre reservation encompasses most of the City of Tacoma, but the area is a “checkerboard” of tribal lands, Indian-owned fee land and non-Indian owned fee land. Our reservation land includes parts of six different municipalities (Tacoma, Fife, Milton, Puyallup, Edgewood and Federal Way). The Puyallup Tribe also provides services for the 4,004 tribal members and 25,000+ Native Americans from over 355 Tribes and Alaskan Villages. The Puyallup Nation Law Enforcement Division currently has a Chief of Police, twenty-six (26) commissioned officers and two (2) reserve officers to cover 40 square miles of reservation in addition to the usual and accustomed areas. Due to limited federal funding for law enforcement in Indian Country, only two (2) officers are funded with P.L. 93-638 funds. The remaining Patrol Officers (26) and Detention Officers (9) positions are funded by the Tribe. The total cost of law enforcement services, including facilities operations and maintenance, exceeds \$5.7 million per year. These costs are paid for with Tribal earned income. With the continuing increase in population, increase in gang related activities on the Puyallup Reservation and the impact of the manufacturing of methamphetamines in the region, the services of the Puyallup Nation Law Enforcement Division are exceeding maximum levels.

A major area of concern has been the status of the **Tribe’s Detention Facility**. Due to damages from the February 2001 Nisqually earthquake, we have had to relocate to modular/temporary facilities. Operated as a “regional detention facility” the Puyallup Tribe was able to provide detention service to surrounding Tribes. Since the relocation to modular facilities the Tribe’s ability to effectively and safely incarcerate detainee’s has been compromised due to the condition of the temporary detention facilities. These conditions have been verified by a recent inspection by the B.I.A. with a recommendation that no further funds be allocated to try and bring the facility up to any standard. In an effort to protect the safety and welfare of the native community the Puyallup Tribe has initiated the design and construction of a 46,697 sf. **“Justice Center”** to be located on the Puyallup Indian Reservation. The total construction cost of the Justice Center is estimated at \$23.8 million, is being designed for a “Phased” implementation and will provide necessary facilities for the delivery of judiciary services including a Tribal Court, Court Clerk, Prosecution, Probation, Public Defender and Law Enforcement services including Police

Headquarters and a 17,465 sf., 28 bed ***“Adult Detention facility”*** (Phase I). The Tribe was successful in securing F.Y. 2009 Department of Justice ARRA Correctional Facilities on Tribal Lands Program: Construction of Detention Facilities for Adult and Juvenile Offenders funding in the amount of \$7,936,648 for the construction of the 28 bed Adult Detention facility. An additional \$1.1 million necessary for the completion of Phase (I) is being provided with Tribal Revenues. It is anticipated that this facility will come on-line at the beginning of F.Y. 2012 with an estimated operations and maintenance cost of \$1.3 million. The Puyallup Tribe has commenced the process of submitting a P.L. 93-638 contract request to the B.I.A. for O&M funding for the facility. In order to complete the Tribe’s “Justice Center” approximately \$14.8 million is necessary for the construction of the Law Enforcement facility (Phase II) and the Judicial/Tribal Court Center (Phase III).

- ***Request Subcommittee support to increase funding to the BIA Public Safety and Justice Law Enforcement at the FY 2010 enacted budget level of \$52 million and further request that the B.I.A. transfer Law Enforcement back into Tribal Priority Allocations (TPA);***
- ***Support from the Subcommittee on the Tribe’s P.L. 93-638 contract request to the B.I.A. for Operations and Maintenance funding for the Tribe’s Adult Detention Facility, estimated at an annual cost of \$1.3 million;***
- ***Support from the Subcommittee to fund the Tribal Courts budget in the F.Y. 2011 budget at no less than \$25 million and request that the Subcommittee issue directive language to BIA to include increased funding for the Tribal Courts FY 2012 budget to allow for construction/renovation of Tribal Court facilities.***

Fisheries, Wildlife & Natural Resources Management: The Puyallup Tribe as steward for land and marine waters in the Usual and Accustomed fish, shellfish and wildlife areas has treaty and Governmental obligations and responsibilities to manage natural resources for uses beneficial to the regional community. Despite our diligent program efforts, the fisheries resource is degrading and economic losses are incurred by Indian and Non-Indian fisherman, and surrounding communities. Our Resource Management responsibilities cover thousands of square miles in the Puget Sound region of the State of Washington with an obligation to manage production of anadromous, non-anadromous fish, shellfish and wildlife resources. Existing levels of support are inadequate to reverse the trend of resource/habitat degradation. Resource management is constrained due to funding shortfalls. ***We seek Committee support and endorsement in the following areas:***

- ***Tribal Fisheries Resource Management, Hatchery Operation and Maintenance funding via P.L. 93-638 contracts have not increased substantially since establishment of base budgets in 1984. The demand on Puyallup Tribal Fisheries Program has grown exponential since the eighties and is currently faced by Endangered Species Act listings on numerous species. We request and concur with the Northwest Indian Fisheries Commission that increases in F.Y. 2010 Rights Protection Implementation funding be used to establish new base management funding for F.Y. 2011. We further support the existing BIA hatchery maintenance and rehabilitation and the Hatchery Reform Implementation be funded at the proposed F.Y. 2011 budget level;***
- ***Steelhead numbers throughout the south Puget Sound region have diminished markedly over the past 20 years. Generally, harvest management restrictions in the form of fishing closures, wild fish release regulations and curtailed seasons and/or bag limits have been enacted to protect wild stock. To avoid possible extinction the Puyallup Tribe proposes to construct a steelhead enhancement facility to be located on a 13 acre property owned by the Tribe on Wilkeson Creek in eastern Pierce County. The program will be capped at***

rearing 150,000 smolts on a combination of surface and pumped well water. The steelhead will be reared for approximately 15 months. This project will facilitate the Puyallup Tribe and other resource agencies involved to help stave off extinction of wild winter steelhead in the Puyallup Watershed. We request Committee support to appropriate \$1.426 million for the Wilkeson Creek Property Steelhead Hatchery Project;

- *Washington Timber-Fish-Wildlife Program - U.S./Canada Pacific Salmon Treaty. The TFW and the U.S./Canada Pacific Salmon Treaty programs has allowed for the expansion of tribal participation in the state forest practice rules and regulations and participate in inter-tribal organizations to address specific treaties and/or legal cases which relate to fishing rights, harvest and management. We request Committee support to provide funding for the TFW and U.S./Canada Pacific Salmon Treaty at the FY 2010 enacted budget level;*
- *Unresolved Hunting and Fishing Rights Program – Tribal Wildlife Management has been the lead agency in management activities to benefit the South Rainier elk herd since 2004. The South Rainier elk herd is the primary stock of elk harvested by the Puyallup Tribe. The Tribe has not only established more reliable methods for population monitoring, but has also been proactive in initiating habitat enhancement projects, research, and land acquisition to ensure sustainable populations of elk for generations. Funds that have been made available to the Tribe have been on a very competitive basis with a limited amount per program via USFWS Tribal Wildlife Grants and B.I.A. Unresolved Hunting and Fishing Rights Grants. We request Committee support to provide F.Y. 2011 base funding in the amount of \$100,000 for the Wildlife Management Program budget.*

Operation of Indian Programs & Contract Support Costs: The President's FY 2011 budget needs increased funding for the B.I.A. - Operation of Indian Programs. Within the Operations of Indian Programs is the Tribal Priority Allocations (TPA). The TPA budget functions include the majority of funding used to support on-going services at the *"local tribal"* level, including; law enforcement, natural resources management, child welfare, housing, tribal courts and other tribal governmental services. These functions have not received adequate funding to allow tribes the resources to fully exercise self-determination and self-governance. Further, the small increases "TPA" has received over the past few years have not been adequate to keep pace with inflation. *At a minimum, we request your support and endorsement in the following;*

- *Support by the Committee to fund Operation of Indian Programs FY 2011 request of \$2.4 billion and fund Contract Support costs at 100% level;*
- *Tribal communities have some of the greatest needs in the areas of child abuse and neglect and mental health services. Addressing the current unmet needs in providing services to our most vulnerable and victims of abuse should be a priority of all people. The Puyallup Tribe proposes the development of a Child Advocacy Center and Domestic Abuse Center designed to provide services for children, youth and families in need of child welfare, mental health and juvenile justice services. We request Committee support to increase funding for Indian Child Welfare (TPA) by \$45 million; Increase Urban Indian Child Welfare Programs by \$ 15 million; and Increase Child Welfare Assistance, B.I.A. by \$ 55 million.*

Education: Under DOI, B.I.A.'s budget has historically been inadequate to meet the needs of Native Americans, resulting in unmet educational needs that have multiplied over the past decade. The Puyallup Tribe operates the pre-K to12 Chief Leschi Schools which includes a verified

2008-2009 School student enrollment of 910+ students, including ECEAP and the FACE program. The enrollment figures represents near capacity with all classrooms being utilized on a daily basis. With an increasing number of “pre-kindergarten” enrollment, Chief Leschi Schools will exceed design capacity in the near future. *We request Committee support in the following;*

- *We concur with the Committee’s strong opposition to the President’s proposed cut to Indian school construction and request that Indian school construction funding be restored to the F.Y. 2003 level of \$293 million;*
- *The proposed F.Y. 2011 budget level of \$804 million for education programs is an increase of \$5 million from the F.Y. 2010 level. However, this amount is inadequate, does not include any across-the-board increases for tribal and B.I.A. schools and no inflationary adjustments. We concur with the NIEA recommendations to increase education programs in F.Y. 2011 and 2012;*

DHHS Indian Health Service: Funding for the Indian Health Service fails to meet the needs of health services for Native Americans. The Puyallup Tribe has been operating their health care programs since 1976 through the Indian Self-determination Act, P.L. 93-638. The Puyallup Tribal Health Authority (PTHA) operates a comprehensive ambulatory care program to an expanding population in Tacoma and Pierce County, Washington.

There are no I.H.S. hospitals in the Portland Area so all specialties and hospital care have been paid for out of our contract care allocation. The Contract Care allocation to PTHA has been significantly inadequate to meet the needs since 2004 when the Puyallup Tribe subsidized Contract Health with a \$2.8 million dollar contribution; in 2005 PTHA shifted to a priority one status. By 2009 the tribal subsidy reached a staggering \$6 million dollars. Given that the PTHA service population is only comprised of 17% Puyallup Tribal members tribal budget priorities in 2009 indicate the Tribe will no longer be able to make subsidies to the PTHA. Contract Health dollars are expected to run out by mid 2010. *We request the following Committee support for the F.Y. 2011 budget;*

- *Fund Puyallup Tribal Health Authority Contract Health Care Fund an additional \$6 million dollars to match F.Y. 2010 tribal expenditures. Fund the Indian Health Service Contract Health Services budget at \$864 million for F.Y. 2011, an increase of \$84 million;*
- *Fund I.H.S. at the \$428 million dollar increase required to maintain current service levels including medical inflation, payroll increase and population growth;*
- *Fund Contract Support Costs at \$444 million for F.Y. 2001, an increase of \$46 million over the F.Y. 2010 level;*
- *Exempt I.H.S. budget from rescissions. I.H.S. health programs are subject to the same rates of medical inflation as the Veterans Administration and are deserving of the same consideration;*
- *The Indian Health Care Improvement Act (P.L.94-437) provides funding for the Indian Health Services and has been pending re-authorization since F.Y. 2000. The Puyallup Tribe of Indians supports all efforts by Congress and the Administration to pass the Indian Health Care Improvement Act.*



Northwest Indian Fisheries Commission

6730 Martin Way E., Olympia, Washington 98516-5540
Phone (360) 438-1180 www.nwifc.org FAX (360) 753-8659

Testimony of
The Honorable Billy Frank, Jr., Chairman, Northwest Indian Fisheries Commission
Before the
House Interior, Environment and Related Agencies Appropriations Subcommittee
On the FY 2011 Budgets for the Bureau of Indian Affairs & Environmental Protection Agency
March 23, 2010

Mr. Chairman and other honorable members of the Committee, I am Billy Frank, Jr., Chairman of the Northwest Indian Fisheries Commission (NWIFC). It is indeed a privilege for me to be among the distinguished cadre of Northwest Tribal Leaders who are also here to present the funding requests of their people. Their strong support and encouragement gives our organization focus and direction and helps make us successful in protecting and enhancing their treaty rights.

Using the FY-2010 enacted budget as a minimum level of need in FY 2011 to maintain current services, I submit the following requests:

Bureau of Indian Affairs

- Restore the Western Washington Fish Management and Washington State Timber-Fish-Wildlife Project to FY-2010 enacted levels of \$8.532 and \$2.736, respectively
- Increase Western Washington Fish Management by \$8.614 million beyond the FY-2010 enacted level
- Increase Salmon Marking by \$1.4 Million beyond the FY-2010 enacted level
- Increase U.S. Canada Pacific Salmon Treaty Implementation by \$680,000 beyond FY-2010 enacted level
- Increase Fish Hatchery Maintenance by \$2.142 million beyond the FY-2010 enacted level

Environmental Protection Agency

- Support the Tribal General Assistance Program (GAP) at the \$71.4 million request in the President's budget
- Support the Multimedia Tribal Implementation Grants at the \$30 million request in the President's budget
- Support the increase of \$2.9 million in Tribal Capacity Building which is requested in the President's budget
- Restore the Puget Sound Geographic Program to the FY-2010 enacted level of \$50 million

Regional Requests

- **We support the Budget Requests of the Affiliated Tribes of Northwest Indians**

National Requests

- **We support the Budget Requests for the National Congress of American Indians**

On behalf of our 20 member tribes, I am here today to speak to our FY-2011 natural resource management funding requests for the Bureau of Indian Affairs (BIA) and the Environmental Protection Agency (EPA). But before I do that, I must first acknowledge the outstanding support

this Committee has given to us this past year. You listened to our story and have helped us greatly with your actions that supported our needs. We are also pleased that the FY-2011 President's budget continues to be supportive of the northwest natural resources funding requests and includes many of the Committee's actions from last year.

TRIBES, TREATY RIGHTS AND TRUST OBLIGATIONS OF THE FEDERAL GOVERNMENT

Indian tribes have always inhabited the watersheds of western Washington, with cultures almost entirely based on harvesting fish, wildlife, and other natural resources in the region. In the mid-1850s, a series of treaties were negotiated between the federal government and the tribes in the region. Through the treaties, the tribes gave up most of their land, but in so doing reserved certain rights to fish, hunt and gather to protect their way of life.

The promises of the treaties were quickly broken in the decades that followed as the tribes were systematically denied their treaty-protected rights by the State of Washington. In 1974, the tribes won a major victory in *U.S. vs. Washington (Boldt Decision)*, which reaffirmed their treaty-protected fishing rights. The ruling - which has been upheld by the U.S. Supreme Court - established the tribes as co-managers of the resource and determined they were entitled to 50 percent of the harvestable number of salmon returning to Washington State waters. More recent federal court rulings and solicitor opinions upholding treaty-reserved rights have further expanded the role and responsibilities of the tribes as natural resource managers. Those rulings, combined with the interconnectedness of all natural resources, mean that tribal participation is essential in nearly all aspects of natural resource management in the region.

The tribes from the Pacific Northwest have stepped forward and have embraced co-management. Today, the tribes have developed sophisticated programs designed to protect and enhance their treaty rights. Tribal programs, based on deep cultural and philosophical underpinnings, have served as the backbone of salmon recovery, providing the technical, policy and legal framework for this incredibly difficult task. Tribes perform complicated harvest, hatchery and habitat management tasks that neither the state nor the federal government can effectively carry out. Tribal programs, largely funded by the Bureau of Indian Affairs, serve as a *de facto* arm of the federal government as it labors to uphold its trust obligations to the tribal people. It is because of the role that tribes play in protecting their rights that they require adequate, long-term, and stable funding. This committee has heard this plea and has been a valuable partner in this effort.

REQUESTS JUSTIFICATION NARRATIVE

BUREAU OF INDIAN AFFAIRS

- **Restore the Western Washington Fish Management and Washington State Timber-Fish-Wildlife Project to FY-2010 enacted levels**

Congress increased the Rights Protection Implementation subactivity in FY-2010 by \$12 million. This increase was allocated to all line items within this program element, restoring the Pacific Salmon Treaty Implementation, Washington State Timber-Fish -Wildlife Project, and Salmon Marking to previously funded levels. Additional monies were added to the Western Washington Fish Management program bringing this account to \$8.532 million.

However, the President's budget did not carry forward the entire FY-2010 increase. The Western Washington Fish Management and the Timber-Fish-Wildlife Project were reduced by \$434,000 and \$139,000 respectively. Thus, we request that these accounts be increased to maintain the FY-2010 funding level.

- **Increase Western Washington Fish Management to \$8.614 million beyond the FY-2010 enacted level**

Over the past several years, the tribes and the NWIFC have requested an increase of \$12 million in the base Western Washington Fisheries Management program. Last year, Congress heard our plea and increased the national Rights Protection Implementation fund by \$12 million with \$3.386 million of this going to the Western Washington Program. This increase was very much appreciated and will go towards meeting many of our needs. However, we once again ask Congress to address the remaining identified needs at the NWIFC and our member tribes. We request an increase of \$8.614 million which is consistent with our needs assessment presented last year to this Committee.

- **Increase Salmon Marking by \$1.4 Million beyond the FY-2010 enacted level**

The Salmon Marking line item was funded at \$1.0 million by the FY-2010 increase in Rights Protection Implementation. These funds are used to mark salmon at tribal hatcheries and to use these marked fish to scientifically monitor salmon populations and watersheds in Western Washington, pursuant to the federal requirement to mass mark pacific salmon reared in facilities funded by federal dollars. Plans to implement more extensive selective fisheries targeted at these marked fish require an additional \$1.4 million to implement.

- **Increase U.S. Pacific Salmon Treaty Implementation by \$680,000 beyond the FY-2010 enacted level**

The Pacific Salmon Treaty Act of 1985, Public Law 99-5, charges the United States Section of the Pacific Salmon Commission with the responsibility for implementation of the Pacific Salmon Treaty, a bilateral treaty with Canada. Responsibility for funding Treaty related programs rests with the United States Government. We support the U.S. Section's recommendation to fund the Department of Interior, Bureau of Indian Affairs at \$4.8 million, an increase of \$680,000 from the FY-2010 enacted level.

- **Increase Fish Hatchery Maintenance by \$2.142 Million beyond the FY-2010 enacted level**

Tribal fish hatcheries in western Washington are part of the largest fish hatchery system in the world. Tribal hatcheries produce 50% of the coho salmon and 33% of the Chinook salmon in Puget Sound and the coast of Washington. These hatcheries provide fish that significantly contribute to both non-Indian recreational and commercial harvest, as well as for tribal fisheries. Today, hatcheries also play a large role in recovering pacific salmon, many of whom are listed under the Endangered Species Act.

A comprehensive needs assessment study was conducted in FY-2006 by the BIA at the request of Congress which identified a level of need over \$48 million in necessary hatchery maintenance and rehabilitation costs. Last year the BIA Fish Hatchery Maintenance budget was increased to \$2.852

million. We support this increase and ask that this account be increased a further \$2.142 million to total \$5 million.

ENVIRONMENTAL PROTECTION AGENCY

- **Tribal General Assistance Program (GAP)**

We support full funding of the EPA Indian General Assistance Program (GAP) at the \$71.4 million amount requested in the President's budget. This funding has built essential tribal capacities and remains critical to the tribes' ability to sustain their important water quality programs. We support the increase of \$8.5 million which is included in the President's budget.

- **Multimedia Tribal Implementation Grants**

We support \$30 million for the Multimedia Tribal Implementation Grant program funding, which is included in the President's budget. This program will allow the EPA to provide targeted multimedia (cross discipline) grants to tribes for implementation of federal environmental programs. This program logically follows the capacity building function under the Tribal GAP, as noted above.

This program is a substantial investment from within the EPA and will continue to build a firm foundation for environmental protection. Tribes in western Washington are ready to partner with EPA to begin this implementation program.

- **Tribal Capacity Building**

Additional funds are needed within the agency to effectively manage the new Multimedia Tribal Implementation Grants Program. An additional \$2.9 million will support new positions to oversee, provide guidance and ensure accountability to the grant program and ongoing Tribal GAP work. This capacity will also provide direct technical assistance to tribes. We support this additional funding included in the President's budget.

- **Puget Sound Geographic Program**

Marine resources are very important to our member tribes. The Puget Sound Geographic Program provides essential funding that will help protect, restore and enhance Puget Sound. We support restoring this program to the \$50 million amount enacted in FY-2010. With this level of funding, collaborative work can continue on key marine issues, salmon recovery, land use management and regulatory changes.

Tribes will seek funding from this EPA account, in coordination with the Puget Sound Partnership. Such funding will allow the tribes to participate in the necessary scientific work, implementation measures, and policy discussions on issues that affect our treaty rights.

CONCLUSION

Mr. Chairman, and members of the Committee, we know that it is difficult to allocate scarce federal funds. However, we believe that the management work that we perform to protect our valuable resources and to help fulfill the trust obligation of the federal government continues to be worthy of your support. Thank you.

TESTIMONY IN SUPPORT OF URBAN INDIAN HEALTH FUNDING

Ralph Forquera, M.P.H.

Executive Director

Seattle Indian Health Board

March 23, 2010 – 10:00 a.m.

Mr. Chairman and members of the House Appropriations Subcommittee on Interior, Environment, and Related Issues, my name is Ralph Forquera. I am Executive Director for the Seattle Indian Health Board and Director for our Urban Indian Health Institute.

The Seattle Indian Health Board is celebrating our 40th anniversary in 2010 making us one of the oldest if not the oldest urban Indian health organizations in the nation.

I would first like to thank the committee for their support for urban Indian health by allocating an additional \$5 million in the FY-2010 appropriation. This investment was badly needed as the many years of little or limited funding combined with the economic downturn the nation continues to face had placed many of the urban Indian health organizations at a financial crossroad. This investment has given some of us a little breathing room for the time being. But as health care costs continue to rise, and I should note that we are not a contributor to these double digit increases but must bear these as new expenses for our agencies, we still face a rather challenging future.

This year, President Obama has requested \$45,502,000 for urban Indian health, an increase of \$2,363,000 over the FY-2010 allocation or roughly a 5% adjustment. While this increase is welcome, additional needs demand that we seek your further help asking that you allot additional funds to address new and evolving concerns.

SEXUAL VIOLENCE AGAINST INDIAN WOMEN

At the November 2009 meeting with tribal leaders from across the nation, President Obama referenced the crisis in sexual violence against American Indian and Alaska Native women. Recently, the Urban Indian Health Institute that I direct looked at the National Study of Family Growth, a Centers for Disease Control and Prevention study that looks at reproductive health issues finding that urban Indian women completing this survey also experience sexual violence in their lives. This disturbing fact illustrates that greater attention is needed from the Indian Health Service as well as other agencies of the Department of Health and Human Services to

support urban Indian health organization so that we can build the capacity to address this growing epidemic. The Indian Health Service has allocated a mere \$2.5 million dollars to initiate programs for sexual violence in 2010. Only \$262,000 is available for urban Indians.

Given the growing recognition of this problem that even President Obama acknowledges as a crisis, we request that the Congress appropriate \$1 million in grant funding to urban Indian health organizations so that we can better assess the magnitude of this problem in our communities and identify local and national partners to begin the process of dealing with sexual violence in the non-reservation/urban portion of Indian Country.

ELECTRONIC HEALTH RECORDS AND TECHNOLOGY IMPROVEMENTS

As you know, the Indian Health Service received \$85 million in American Reinvestment and Recovery Act (ARRA) funds for technology last year. None of the technology funds authorized by ARRA for the Indian Health Service were given to urban Indian health organizations. In this past year from the generous increase offered by the Congress for urban Indian health, only \$95,000 has been set aside for technology and its use is restricted to training for the IHS's Resource and Patient Management System (RPMS).

The transition to the electronic health record and other technology advances are an essential strategy in our efforts to increase efficiency, improve quality, and with time, save health care dollars. Through the Urban Indian Health Institute, we have been working closely with the Office of the National Coordinator for Health Information Technology to understand the nature of technology transition, assess our technology capabilities at the various urban Indian health organizations, and help guide these organizations toward making sound choices around technology investments. With limited resources, an investment in technology is more than just hardware and software. We have learned that adopting technology is a wholesale change in the operation of organizations. The transition to technology is a long term commitment that will require on-going staffing, technology maintenance, and periodic upgrades. While Congress is making substantial investments in technology, urban Indian health organizations are not currently benefitting.

Many of us who operate direct care programs and are funded from multiple public and private sources are using a variety of commercial practice management and electronic health record systems, the vast majority of which are not compatible with the RPMS system. The architecture for RPMS is dated and does not easily interact with today's commercial products. While perhaps suitable for some parts of the Indian health system, an assessment of user capability to meet the needs of more complex organizations has not been demonstrated. Therefore, I am asking that the Congress allocate \$2 million to help support non-RPMS technology development for urban Indian health organizations to assure that we can build local capacity to interact with health care networks that we use every day for our specialty referrals, hospital, and related services to assist our clients. At an August 2009 meeting held in Seattle with 21 urban Indian health organizations

in attendance, most were looking to commercial products for their technology investments due to integration demands.

URBAN INDIAN YOUTH STUDY

Over the past several years, through our Urban Indian Health Institute, we have been working with the Johns Hopkins School of Public Health seeking resources to conduct a national survey of Indian youth to look at risk and resilience factors that influence health. The last large scale youth survey was done in 1988 and the survey did not include urban Indians. Unfortunately, we have been unable to secure funds to conduct this ambitious examination.

The Urban Indian Health Institute analyzed national data from the Youth Behavioral Risk Survey and now the National Study of Family Growth each providing rather alarming health trends in need of more direct study. Therefore, we strongly believe that a national study of urban Indian youth would be enormously helpful in confirming the findings from these national reports. By verifying the findings, we can better direct programs and resources to address identified problems and build programs to reinforce positive behaviors. Therefore, we are seeking \$1.5 million to conduct this national study. We estimate that the study will take three (3) years with a year of preparation and survey design, a year of data collection, and a year for analysis, synthesis, and reporting. The Urban Indian Health Institute will work with the 34 urban Indian health organizations and attempt to reach between 5,000 and 7,000 Indian youth between the ages of 12 and 21. We will work with John Hopkins University professionals and other community and academic partners across the nation to assure that the study meets the highest scientific standards.

Shortly, the nation will complete the decennial census. If the trend in Indian residency continues as expected, the community of urban Indians is likely to exceed 70% of the total American Indian/Alaska Native population. There are many factors that influence this geographic shift including employment and education opportunities, changes in tribal rules, and the sheer growth in urban Indian families. Here in Seattle, we are now serving 4th generation Indians. A large portion of Alaska Natives make Seattle and the surrounding area home. Over 200 federally recognized tribal nations are listed among our service clients as well as scores of Indian people not affiliated with a given tribe.

Again, I would like to thank the Committee for their support in FY-2010. Your continued recognition of our work in FY-2011 and beyond is essential if we are to achieve the goal of health parity for all Americans.

Thank you.

**TESTIMONY OF JOSEPH PAVEL, VICE CHAIRMAN
OF THE SKOKOMISH TRIBE OF WASHINGTON STATE
BEFORE THE HOUSE APPROPRIATIONS
SUBCOMMITTEE ON INTERIOR AND RELATED AGENCIES
MARCH 23, 2010**

My name is Joseph Pavel, I am Vice-Chairman of the Skokomish Tribe of Washington State. I would like to thank the Subcommittee for the opportunity to testify and would like to welcome Chairman Moran to Indian Country. I know that Congressman Dicks would very much welcome a visit to my Reservation and the 6th District of Washington State.

The Skokomish Indian Reservation is a rural community located at the base of the Olympic Peninsula with a population of over 1000 people. The 5300 acre Reservation is a fraction of the 2.2 million acre of the Tribe's Treaty area. The Skokomish Tribe appreciates the work of the Subcommittee and asks that you provide increased funding in areas that are key to the continuing development of tribal communities.

I. BUREAU OF INDIAN AFFAIRS PROGRAMS

A. Law Enforcement. The Skokomish Tribe respectfully requests increased funding for our law enforcement programs within the Bureau of Indian Affairs.

Since 1997, the Skokomish Department of Public Safety has grown from one (1) untrained officer, to six Washington State certified/Washington State equivalency trained or BIA certified law enforcement officers (this includes our two conservation law enforcement officers). Our officers provide day-to-day law enforcement services on the Reservation. They are also responsible for patrolling the 2.2 million acres that make up our treaty protected fishing and hunting areas. To be fully staffed at a baseline minimum for the area and scope of service that the Skokomish Department of Public Safety is tasked with, we need a total of eighteen (18) officers. Thus, we are almost 80% below what is needed to safely serve our community.

In a recent report, the Skokomish Reservation was reported as having a violent crime rate that is five times higher than the national average. Between 2006-2010, there were 501 "Part One" offenses—manslaughter, rape, domestic violence, child abuse, assault with a weapon, burglary, and arson. For the same period, there were an additional 2210 offenses for lesser crimes, like assault with no weapon, drug selling or manufacture, and vandalism. This means that at least fifty percent of the people who live on the Skokomish Reservation are likely to have been a victim of a crime and in many instances the victim of a violent crime. As result of this, the Skokomish Tribal Council has made addressing public safety needs a priority and have directed staff to find the resources and programs necessary to respond to this overwhelming law enforcement need.

In light of this significant tribal need, we are deeply concerned that the BIA has not sought an increase in funding for tribal law enforcement personnel funding. Instead, the BIA has requested \$19 million to fund 45 FBI agents in Indian country. We recognize that there is a deficit of FBI Agents serving Indian country, but we doubt that using the BIA's limited resources to fund what is a Department of Justice function is a wise use of these resources. Crime in Indian country is going to be addressed by having trained law enforcement personnel living and working in our communities. It will not be addressed by staffing FBI agents in Seattle, Minneapolis, or Denver.

Moreover, we remain deeply concerned that the BIA continues to ignore the needs of tribally operated law enforcement agencies and has directed the increases of the last two years to its BIA operated law enforcement agencies. Specifically, in the thirteen years that the Tribe has operated its law enforcement program, we have not received a BIA programmatic increase in our law enforcement funding. While we do not doubt that the BIA has serious needs, so do the Tribal Law Enforcement Departments, which make up 78% of the law enforcement agencies in Indian country. We urge that any increase in law enforcement funding be allocated proportionately among the BIA and Tribally operated law enforcement agencies.

B. Tribal Courts. Increased law enforcement creates a commensurate need for increased funding for tribal courts. Having a fair and qualified judiciary is the bedrock of any government's justice system. Skokomish has long understood this. In 1963, the Skokomish Tribe was the first Tribe in the Northwest (and one of the first in the country) to institute a tribal court to address fishing violations on the Skokomish River. The first Tribal Judge was my mother, a 33 year old nurse and mother of five (at that time), Anne Pavel. My mother was not law trained nor had she received any judicial training. She was, however, a dedicated tribal member, who understood the importance of regulating fishing on the Skokomish River. She held her first hearing in a building heated by a coal stove, with her brother as her court reporter.

While the responsibility and scope of tribal courts have greatly increased in the nearly fifty years since my mother's first hearing, the Bureau of Indian Affairs has not provided these important institutions with the commensurate level of funding. Today, Tribal Courts handle huge criminal, civil and juvenile dockets, which could not be handled by the already over burdened state and federal courts. At Skokomish alone we have 458 open criminal cases. Unfortunately, even though we participate in the Northwest Intertribal Court System—an inter-tribal organization that my mother started, which allows tribes to work cooperatively and a cost effective manner address our justice systems needs--we can still only afford for our Tribal judge and our prosecutor to work three days a month. Most of our courts cannot afford to provide public defenders and many do not have law trained prosecutors. Fortunately, through the dedicated work our Tribal leaders most of our judges are now law trained.

While the Department did not propose any cuts in Tribal Courts, it did not propose any increases. Moreover, for the Tribes in the Northwest Region, last year's \$10 million increase in Tribal Court funding did not translate into any increased funding for

our Tribal Courts systems. We urge the Subcommittee to direct the Department to allocate Tribal Court funding in a way that is fair and ensures that all Tribal Court Systems receive an appropriate share of the funding.

II. ENVIRONMENTAL PROTECTION AGENCY

The Skokomish Tribe would like to thank the Committee for your commitment to maintaining funding for key environmental programs. In particular, the Committee's funding in FY 2010 of \$50 million for Puget Sound Restoration efforts, we urge the Committee to reject the EPA's proposed \$30 million cut to this program for FY 2011. This funding is critical to the collaborative efforts to restore the health of the Puget Sound, and in particular the Hood Canal—the Jewel of the Puget Sound--and to the Tribe's efforts to manage and protect our treaty protected resources in the Hood Canal.

The Hood Canal is threatened by the Low Dissolved Oxygen levels (LDOL), which means this vital ecosystem is essentially suffocating. LDOL is caused by many things, but the primary cause is the sewage that is discharged directly into the Hood Canal. LDOL has caused a number of fish kills in the Hood Canal and the Hood Canal to be closed to other seafood harvesting throughout the year. Last summer, the Tribe had to close our shellfish harvest on one of our beaches, because of fecal contamination. Through the Tribe's work it was learned that this contamination was primarily the result of the conduct of sports fishermen, who elected to use our sacred resources as their lavatories.

The impact of this closure on the economy of the Skokomish Tribe and our members was severe. More than 90% of the families on the Skokomish Reservation are supported by Treaty harvesters, men and women who exercise their treaty rights to gather resources to provide for their families. When our beaches are closed, it means that 90% of the families on the Reservation do not get a paycheck until they are open.

Beyond the impacts on the Tribe's and the region's economy, the health of these water resources is at the very heart of the Skokomish Tribe's culture. The Hood Canal is the place where we have for centuries gathered and prayed. In recent times this has not always been possible due to necessary closures. This is unconscionable and the dedicated effort to address this issue must continue.

III. INDIAN HEALTH SERVICE

The Skokomish Tribe strongly supports the \$354 million increase requested for the Indian Health Service. In particular, the Tribe appreciates the \$84 million increase for Contract Health Care. However, at Skokomish, like Indian people throughout the Nation, we face disproportionately higher rates of diabetes and the complications associated with diabetes. Heart disease, cancer, obesity, chemical dependency and mental health problems are also prevalent among our people. While we have a tribally operated ambulatory clinic staffed with dedicated professionals, we do not have access to an Indian Health Service hospital. Consequently, anyone needing in-patient treatment, physical therapy, or diagnostic services must be referred out. This

means that our Contract Health program is always taxed and frequently we do not have the resources to refer people out. The reported shortfall for Contact Health care is \$1 billion. Thus, while we appreciate the \$84 million increase it is woefully inadequate.

We commend the Indian Health Service for the requested \$9 million increase for dental health care. Studies have shown that poor dental care and chronic tooth decay is related to heart disease, and other serious chronic health conditions. The Indian Health Service reports that only 25% of Alaska Native and Indian people have access to dental care, the lack of access results in preventable tooth extractions, poor juvenile care, and in some instances death.

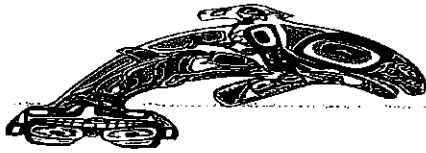
We also commend the Indian Health Service for its focus on alcohol and substance abuse. However, the targeted \$4 million increase is not enough. I suspect every Reservation in the Country has substance abuse treatment needs that are not being addressed. In particular, we are experiencing an increasing dependency on "prescription drugs." Our data shows that prescription drug use has nearly doubled in the last two years; and at the same time our data is showing that methamphetamine use, which was on a decline, is now back on the rise. It is important to note that this data is from individuals who have contact with the Tribe. It does not reflect the many people who are using but with whom the Tribe has no contact.

While the statistics demonstrate the problem in very stark terms, we are experiencing the problem of substance abuse in heart breaking losses. In the last two weeks in December, we buried two young men who lost their lives due to addiction. These young men were sons, brothers, nephews and cousins, but as a Tribal leader these losses represent the potential loss of my Tribe's future. We will not survive as a people if our young men and women continue to leave this earth sooner than they should. I implore the Subcommittee to provide at least a \$19 million increase for alcohol and substance abuse programs nation wide.

IV. TRIBAL HISTORIC PRESERVATION PROGRAMS

In 1995, Congress began encouraging tribes to assume historic preservation responsibilities as part of self-determination. These programs conserve fragile places, objects and traditions crucial to tribal culture, history and sovereignty. As was envisioned by Congress, more tribes qualify for funding every year. Paradoxically, the more successful the program becomes, the less each tribe receives to maintain professional services, ultimately crippling the programs. In FY 2001, there were 27 THPOs with an average award of \$154,000. In FY 2011 it is estimated that there will be 95 tribes operating the program, receiving less \$50,000. We join the National Congress of American Indians in seeking a \$4 million increase in funding for this program.

Conclusion. I want to thank the Subcommittee for the opportunity to present testimony on these important issues.



SQUAXIN ISLAND TRIBE

**Written Testimony to the
House Interior, Environment and Related Agencies Appropriations Subcommittee
On the Fiscal Year FY 2011 Budgets for the
Bureau of Indian Affairs and the Indian Health Service**

**Submitted by
The Honorable Pete Kruger, Tribal Councilman, Squaxin Island Tribe
March 23, 2010**

On behalf of the Tribal Leadership and members of the Squaxin Island Tribe, I am submitting our funding requests and recommendations for the FY 2010 Budgets for the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS). **The Squaxin Island Tribe requests that if a mandatory rescission is applied to all federal programs, we ask that Indian programs not be required to absorb a disproportionate loss of funds with a double rescission on these funds.**

Tribal Specific Requests:

1. **\$750,000 for Northwest Indian Treatment Center Residential Program in IHS**
2. **\$850,000 for Public Health and Safety of the Squaxin Island Community in the BIA**
3. **Increase Tribal Historic Preservation Program Funding**
4. **\$100,000 Squaxin Shellfish Expansion and \$750,000 for Shellfish Enhancement Program**
5. **\$5 million to Fulfill the Final Payment Puget Sound Regional Shellfish Settlement**

Regional Requests and Recommendations

1. **Northwest Portland Area Indian Health Board**
2. **Affiliated Tribes of Northwest Indians**
3. **Northwest Indian Fisheries Commission**

Self-Governance and National Requests and Recommendations:

Bureau of Indian Affairs

1. **Provide \$82.9 million General Increase to BIA Tribal Priority Allocation for inflationary and fixed costs;**
2. **Provide \$64 million increase for BIA Contract Support Cost (CSC), including Direct CSC;**
3. **Provide \$5 million increase in the Indian Self-Determination (ISD) Fund,**
4. **Increase Office of Self-Governance Budget to fully staff to meet the needs of the increase in Tribes entering Self-Governance; and,**
5. **Provide 100% of Fixed Costs (uncontrollable), including Tribal Pay Costs.**

Indian Health Service

6. **Provide \$474 million for IHS mandatory, inflation and population growth increase to maintain existing health care services;**
7. **\$330 million increase for Contract Health Services (CHS);**
8. **\$122 million increase for IHS to fully fund Contract Support Cost (CSC), including Direct CSC; and,**
9. **Increase \$5 million to the Indian Health Service (IHS) Office of Tribal Self-Governance**

We support the requests of the National Indian Health Board and the National Congress of American Indians.

Squaxin Island Tribe Background

The Squaxin Island Tribe, a signatory of the 1854 Medicine Creek Treaty, is located in Kamilche, Washington in SE Mason County. The 2009 year-end Tribal member enrollment was of 1015. Squaxin has an estimated service area population of 2,767, a growth rate of about 10%, and an unemployment rate of about 30%, according to the BIA Labor Force Report. According to the Mason County Economic Development Council, Squaxin is the largest employer in Mason County.

TRIBAL SPECIFIC REQUESTS JUSTIFICATIONS:

1. \$750,000 – "D3WXbi Palil" meaning "Returning from the Dark, Deep Waters to the Light" Northwest Indian Treatment Center has not received an adequate increase in its base Indian Health Service budget since the original Congressional set-aside in 1993. An increase of \$750,000 would restore lost purchasing power and the need to add mental health and psychiatric components to treatment. This increase would allow NWITC to continue its effective treatment of Native Americans.

The Squaxin Island Tribe operates the Northwest Indian Treatment Center (NWITC) located in Elma, Washington (6th congressional district). NWITC is a residential chemical dependency treatment facility nationally recognized as a "Center of Excellence" and was developed to serve unmet needs of rural populations that were not being provided by other urban residential treatment centers in the Northwest. The facility is clinically designed to serve American Indians who have chronic relapse patterns related to unresolved grief and trauma 75% of whom have co-occurring mental health and substance abuse disorders. Addiction treatment is supplemented with mental health assessments and treatment, mental health groups, post-treatment planning, medication management, resource coordination and cultural and spiritual activities to help patients re-anchor in their traditions and reclaim their identity.

NWITC is accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), an international accrediting organization for behavioral health programs. It is also certified and licensed by the Washington State Department of Health. The NWITC residential program serves the tribes of Washington, Oregon and Idaho and sometimes tribes from the Southwest.

The residential portion of the facility houses 24 patients in a circa 1900 single family residence which was converted in the 1930s into a retirement home. In 2006, a new Counseling and Cultural Center building was constructed using both HUD Indian Community Development Block Grant and Tribal funds that replaced two rented modular buildings that were in extremely poor condition. In 2009, we received \$140,418 in American Recovery and Reinvestment Act (ARRA) funding from the Indian Health Service for maintenance and improvement to address urgently needed deficiencies. The project included design, construction and installation for the Center's life safety, general safety, ADA compliance, mechanical, roof, structural and architectural needs.

Treatment has changed over the years in response to meth addiction and its effects on the brain and the individual's capacity to recover. Now NWITC provides evaluations for psychotropic medication, mental health counseling and treatment oriented to unresolved trauma in addition to other traditional forms of treatment. There has also been an expansion of cultural components of treatment. These elements have been required to maintain effectiveness but they also increase the cost of treatment.

2. \$850,000 for the Squaxin Island Department of Public Health and Safety to hire six (6) additional FTE officers for 24-hour coverage in order to ensure the safety of the community and a Public Defender: Public Safety is a high priority for the Squaxin Island Tribe. The Squaxin Island Tribal Public Safety and Justice Department is dedicated to protecting lives, maintaining peace and ensuring that the property and resources of the Squaxin Island Tribe are protected through the enforcement of the laws and regulations set forth by the Squaxin Island Tribal Council. Law enforcement officers patrol the reservation, South Puget waterways and usual and accustomed hunting areas, protecting human life and natural resources upon which Tribal members rely on for cultural and economic sustenance.

The Squaxin Island Public Safety and Justice Department has continued to operate on funding levels insufficient to meet the needs of this Department and our community. This has resulted in operating a program at minimum capacity, which has placed a negative impact on the service level provided to the Squaxin Island Community. The process of protecting the public is hampered by the lack of officers to provide the 24-hour coverage, which is very critical in life and death situations.

The Public Safety Department successfully manages the Squaxin Island Tribal Court, which consists of three divisions: a tribal court, an appeals court and an employment court. The Department also manages a shellfish and geoduck harvesting monitoring program. Officers are trained in scuba diving and assist with compliance and safety issues.

A Public Defender is needed for the justice program. Currently the Tribe is under contract to provide legal representation to the community members. The court caseload and number of police calls continue to grow at an increasing rate. Current funding is inadequate to meet the needs of the growing community, protect natural resources and to fully participate in regional and homeland security programs and initiatives.

The Tribe is enhancing the shellfish habitat and production programs, which has increased the demand on the water enforcement program to address issues of illegal harvesting. With current funding and staffing levels, it will be almost impossible to adequately protect the Tribe's investment in enhancing natural resources. The Squaxin Island Tribe is seeking both long-term and immediate assistance.

4. Increase Tribal Historic Preservation Program Funding - \$12 Million for Tribal Historic Preservation Officers (THPO)

In 1992 Congress adopted amendments to the National Historic Preservation Act (P.L. 102-575) that allow federally recognized Indian tribes to take on more formal responsibility for the preservation of significant historic properties on tribal lands. Specifically, Section 101(d)(2) allows tribes to assume any or all of the functions of a State Historic Preservation Officer (SHPO) with respect to tribal land. In 2002 funding was decreased by approximately 50% because of insufficient monies in the Historic Preservation Fund (HPF) to support current and additional THPOs at the earlier funded levels. In 2010 there are 100 THPOs and the HPF funding is not keeping pace with the expansion.

In 2009, we received approximately 150 requests from agencies preparing to do land projects that required our THPO to perform research of the land with only a 30 day window. Funding does not support a full-time archeologist, as required by the statute or assistants to perform the paperwork. Tribal resources supplement this office because it is critical to the Squaxin Island people to protect our sites and our lands.

The President's proposed level of \$8 million in FY 2011 will continue to increase the shortfall that THPOs are experiencing, yet the program continues to expand. There were 21 new programs in FY 2009 which keeps the average level of support per THPO suppressed and underfunded. We support the request of the NTHPO for \$12 million in FY 2011. We further recommend that future program expansion be funded with increased appropriations for the program in order not to impact the funding of existing THPO programs.

5. \$850,000 Squaxin Shellfish Expansion and Enhancement Program

The Squaxin Island Tribe fully supports the funding of the Shellfish Grower's Settlement Agreement Account. These funds will help assure that, over the long run, the Tribes maintain their access to shellfish resources consistent with the rights they reserved by treaty.

In order to implement the shellfish decisions in the US v Washington litigation, the Tribe offers the following perspectives and funding requests for the highest priority activities needing funding now. The Tribe is committed to working cooperatively with non-commercial tideland owners in order to access the Tribal share of naturally occurring shellfish on their lands. These are shellfish beds that are not included in the provisions for the settlement lands. Our program would identify and locate tidelands, contact their owners, survey shellfish populations consistent with the federal court defined process, and manage harvests of the treaty share by Tribal members. The costs to improve our coverage of this activity will be about \$100,000, primarily for personnel.

Consistent with the implementation of the Shellfish Grower's Settlement Agreement fund, the Tribe needs to improve our infrastructure for enhancement of shellfish on tidelands acquired with the settlement funds. As we purchase available tideland properties with the Shellfish Grower's Settlement Agreement funds, these beaches will need to be restored and enhanced into full productivity to provide clams and oysters for Tribal harvest. Funding would include beach substrate restoration, seeding beaches with juvenile shellfish, maintaining predator protection gear, surveying shellfish age class and population structure, and coordinating harvest. Funding of \$250,000 annually would provide for personnel, purchased clam seed, predator protection gear and equipment to improve 7 acres of tidelands per year.

The Squaxin Island Tribe also foresees the necessity of initiating enhancement of geoduck, a large shellfish bivalve found in the waters of the northwest. This species is long-lived, over 50 years in some cases, and regularly grows to between 1 and 2 pounds per individual. Due to the long recovery time for harvested beds of this species, enhancement techniques have been developed to replant geoducks in substrate where they will grow to maturity sooner than through natural recovery. We propose to enhance five acres annually at an expense of \$500,000, which covers personnel, geoduck seed (immature geoduck), predator protection devices and other equipment. We believe this expenditure is necessary to supplement the existing harvest of naturally occurring geoduck and reduce pressure on natural stocks.

On behalf of the Squaxin Island Tribal Council and Tribal members thank you for this opportunity.



The Confederated Tribes of the Colville Reservation



Prepared Statement of the Honorable Michael O. Finley, Chairman
Confederated Tribes of the Colville Reservation

House Committee on Appropriations,
Subcommittee on Interior, Environment and Related Agencies

Public Witness Hearing—Native Americans

March 23, 2010

Good morning Chairman Moran, Ranking Member Simpson, and members of the Subcommittee. On behalf of the Confederated Tribes of the Colville Reservation (“Colville Tribes” or the “Tribe”), I thank you for this opportunity to provide testimony to the Subcommittee. I am here today to discuss the challenges that the Colville Tribes and other Indian tribes face in getting needed health care facilities constructed under the existing programs administered through the Indian Health Service (IHS). These issues are of great importance to my Tribe and to other Indian tribes in other IHS areas where IHS facility construction dollars have not traditionally been available.

The Colville Tribes recommends that the Committee (1) include \$40 million for the Small Ambulatory Program for FY 2011; (2) direct IHS to provide up to 50 percent of the staffing costs for the facility in awarding the grants; and (3) provide that in evaluating applications, IHS may award up to \$5 million for the construction portion of grants in instances where a facility will serve an unusually high user population or where other unique circumstances exist.

As you know, there are currently three paths to constructing a new health facility under the IHS system. The first is the priority list system, which has been in effect since the early 1990s and provides funding for construction of the facilities included on the list as well as 80 percent of the annual staffing costs. The second is the joint venture (JV) program, which generally requires an Indian tribe to pay the entire up-front cost of construction of a facility in exchange for IHS providing a portion of the annual staffing costs. The third is the SAP program, which is just the opposite of the joint venture program – the IHS pays for the construction costs for the facility and the tribe is responsible for all staffing costs. The priority list has been closed since the early 1990s and the JV and SAP programs have been funded only sporadically during the past decade.

BACKGROUND ON THE COLVILLE TRIBES AND ITS HEALTH DELIVERY CHALLENGES

Although now considered a single Indian tribe, the Confederated Tribes of the Colville Reservation is, as the name states, a confederation of twelve smaller aboriginal tribes and bands from all across eastern Washington State. The Colville Reservation encompasses approximately 1.4 million acres and is located in north central Washington State. The Colville Tribe has more than 9,300 enrolled members, making it one of the largest Indian tribes in the Pacific Northwest. About half of the Tribe's members live on or near the Colville Reservation.

Like many Indian tribes with large service delivery areas, the Colville Tribes faces a health delivery crisis. The Tribe's original IHS clinic in Nespelem, WA, was constructed in the 1930s. The Tribe tried in the 1980s and early 1990s to construct a new facility through the IHS priority list system. We understand that at one point, the Tribe's request for a new clinic in Nespelem was near the top of the priority list but was removed because of concerns that the facility was a historical site. That priority list has been locked since 1991 and some IHS Area Offices, including the Portland Area (of which the Colville Tribes is a part), have never had any facility constructed under the priority list system.

Because the Tribe's need for a new facility was so great and the priority list had been closed, the Tribe ultimately was forced to utilize a variation of the SAP to construct a new facility. Of a total contract amount of \$4,693,000 for the Nespelem facility, the Tribe funded \$3,324,000 and IHS funded \$1,369,000, with no staffing package. The clinic is complete, but the Tribe has an ongoing issue with adequate staffing of the facility, despite the costs that the Tribe paid to construct the facility. The Colville Tribes has also built two other facilities using tribal dollars under a similar arrangement.

The largest population center on the Colville Reservation, the Omak district, has no IHS facility of any kind and the Tribe has been examining potential avenues to construct an IHS facility there. For example, the Tribe sought to apply for the JV program for a new Omak facility when solicitations were being accepted for that program in 2009. IHS informed the Tribe, however, that to have a competitive JV application, it would need to secure up-front more than \$18 million for the construction of the facility and also pay for the initial equipping of the facility. Given the collapse of the woods products market, the Colville Tribes' main source of governmental revenue, and the dismal lending and economic conditions, the Tribe simply did not have the resources for this magnitude of financial commitment.

The Indian tribes whose projects made the final list of JV projects during that solicitation period were all, generally speaking, tribes with access to significant capital and other resources. In sum, rural, land-based Indian tribes with large service populations and limited access to capital are at a distinct disadvantage under the current IHS facility construction regime, even when those programs are funded.

RECOMMENDATIONS FOR FY 2011

The FY 2011 request does not contain any funding for the SAP in FY 2011. This is contrary to Tribal consultation recommendations in the IHS budget formulation process. During these consultations, tribal leaders recommended that IHS's FY 2010 budget include \$20 million for an Area Distribution Fund (similar to the SAP), that the FY 2011 budget include \$140 million for an Area Distribution Fund, and that the FY 2012 budget include \$10 million.

The omission of funding in the request for the SAP is also inconsistent with the IHS National Budget Formulation workgroup recommendations. For the last two years, the workgroup has recommended to IHS, HHS, and OMB that the IHS facilities construction program must be realigned to provide consistent opportunities for Tribes to access facilities construction funding that provides similar benefits as the funding provided under Section 301(c) of the Indian Health Care Improvement Act (P.L. 94-437).

The Colville Tribes also notes that IHS's five year plan contemplates \$40 million for the SAP in FY 2012 and \$50 million in each of fiscal years 2013, 2014, and 2015. Indian tribes that desperately need new health facilities would benefit tremendously if this funding were made available beginning in FY 2011.

The Colville Tribes also believes that the Subcommittee should clarify that grant awards for SAP projects can include up to 50 percent of the staffing costs of the constructed facility. This would provide some measure of staffing for tribes that need it the most but that may not possess the resources to be competitive in the JV program. In instances where a tribal applicant can demonstrate that a SAP facility will serve a large service population or that other extenuating circumstances exist, SAP grants should also be made available up to the \$5 million level.

Suggested Language:

"Changes to the Request include \$40 million for the Small Ambulatory Program. The Committee directs IHS to provide up to 50 percent of the staffing costs for the facility in awarding the grants. In evaluating applications, IHS may award up to \$5 million for the construction portion of grants in instances where a facility will serve an unusually high user population or where other unique circumstances exist."

Going forward, the Colville Tribes hopes that IHS and the Committee will consider the circumstances of those tribes, like the Colville Tribes, that have built health facilities using tribal dollars because of the scarcity of IHS facility construction resources. As the Committee and IHS explore innovative approaches to meet facility demand, the Colville Tribes is hopeful that additional staffing resources will be made available to tribes in this situation

I appreciate this opportunity to testify today. At this time I would be happy to answer any questions the Subcommittee may have.

SANTEE SIOUX NATION

EXECUTIVE OFFICERS:

CHAIRMAN

ROGER TRUDELL

VICE CHAIRMAN

DAVID HENRY

SECRETARY

CORA JONES

TREASURER

ROBERT CAMPBELL



DISTRICT REPRESENTATIVES:

SANTEE DISTRICT

MARCELLA LAPOINTE

HOWE CREEK DISTRICT

KENNETH CHAPMAN

HOBU CREEK DISTRICT

MARION BRANDT

BAZILE CREEK DISTRICT

FELIX KITTO

TRIBAL HEADQUARTERS

108 W. Spirit Lake Ave, Niobrara, Nebraska 68760 Phone: (402) 857-2772 Fax: (402) 857-2779

TESTMONY

OF

ROGER TRUDELL, CHAIRMAN

SANTEE SIOUX TRIBE OF NEBRASKA

Good Morning Mr. Chairman and Members of the Committee:

My name is Roger Trudell and I am the Chairman of the Santee Sioux Nation located in the State of Nebraska. Thank you for the opportunity to testify before you today. I am truly honored to be here.

Mr. Chairman, I am here today to ask for your help in providing our tribal members with one of the most basic requirements of life- Clean and safe drinking water.

Today, the water flowing from the faucets in our on-reservation members' homes is of such low quality that it is causing health concerns for our people on a daily basis. In fact, it is so bad that it can be compared to the water contamination found in third world countries. This water clearly fails to meet level two drinking water standards under the Safe Drinking Water Act and we believe, that at number of points each year, it even fails to meet level one drinking water requirements- this means that it is clearly contaminated and should not be drunk at all.

In 1997 and again in 2004 a Needs Assessment report was prepared) by the Bureau of Reclamation which documented the poor water quality on our reservation and in the surrounding communities. (Needs /Assessment MR&I Water System, Santee Indian Reservation, Nebraska, March 2004) That Needs Assessment identified the need for water system improvement on the Santee Reservation and suggested alternatives for meeting those demands. The problem is that six years later nothing has been done to address the problems identified in that study.

Mr. Chairman, at one time we had clear, fresh, odor free drinking water, but a number of factors have caused that to change. Most significant among those was the construction of northern dams under the Pick Sloan Act, which have changed the flow rates of Missouri River and the flows and levels of the other bodies of water which connect to it. The simple result, however, is that because of the river and creek changes brought about by those projects, we now have surface

water to subsurface water contamination in tribal wells and in our drinking water system. I am providing you with copies of pictures taken of the area surrounding our on-reservation Most Merciful Episcopal Church, one in 1966 and one on March 18, 2010. These pictures show you the changes which have caused our current problems. As you can see, there is a dramatic difference in a mere forty four (44) years and the subsequent backup of water onto the lands of our reservation, especially in the area of our tribal wells, have left us with an emergency drinking water situation which simply has to be addressed as soon as possible.

Today, our drinking water is impacted by nonpoint source contamination from crop production. This results in elevated nutrients like nitrates and nitrogen going into our water supply. Our wells also see periodic contamination from pesticides like atrazine from those same farms. Bacteria are also going into our system at various points during the year. This is coming from confined animal feeding operations and animals on pastures which now have direct access to the streams. The overall result, however, is that today our drinking water is unsafe, it is cloudy, it causes skin irritations and it even smells like sulfur when you turn on the tap.

To make matters worse, a large majority of our members live on the edge of the poverty level and many of those who are just above the poverty level live on fixed incomes, or have salaries of around \$7.50 per hour. Thus, it is all but impossible for most of our tribal members to buy the water their families need to drink, cook, bath and wash clothes. Thus, today we have members using this unsafe water to take their prescriptions, make their meals and even to mix the formula for their babies and we have parents giving their children cheap high sugar content drink mixes to hide the taste of the water that flows from their taps.

The private wells that are currently in use throughout our reservation are also impacted. The ground water is high and rising each year. Consequently the ground water quality varies throughout the Reservation. The ground water in the southeastern portion of our reservation has the overall best water quality, but even it has an elevated concentration of nitrate-nitrogen, which in many wells exceeds the current drinking water standards.

Simply, put we need your help and we need it now. The BOR started feasibility work in 2004 but that work has never been completed, and to date the IHS has not identified our needs as a priority. In fact, since this has happened, it seems like our water problems are being treated like a ping pong ball, bouncing back and forth between agencies. Everyone is concerned and says how bad this situation is, but no one will step up to the plate and make a decision to fund this project.

Under our treaties, the United States assumed a trust responsibility for the health of our people. That responsibility has been placed, by this Congress, squarely on the shoulders of the Indian Health Service. I am therefore here today to ask you for \$21 million to complete the design and construction of a replacement for our existing water system, and for \$200,000 to help our impoverished families buy water to drink until this construction can be completed. You already know the poor health statistics associated with our people, so I won't repeat those figures to you again. But I will point out that safe drinking water will go a long way to improve the health of our Santee people.

Finally, while the health and welfare of our tribal members has to take priority, I would also like to note that this tribal drinking water problem has also crippled our attempts at economic development. The Tribe has long had plans to develop a hotel, and recreational area, as well as other businesses, but we certainly would not want to rent you or anyone else a hotel room with a sign in it saying, warning, this water does not meet minimum federal drinking water standards and has been known to create rashes on the skin of many people when it is used for bathing.

For all of these reasons, I implore you to help us by directing the I H S to address this problem. Even if you act today, our people will still have to wait at least 18 months to obtain clean safe drinking water in their homes.

**TESTIMONY PRESENTED BY RON SUPPAH, CHAIRMAN,
THE CONFEDERATED TRIBES OF THE WARM SPRINGS
RESERVATION OF OREGON
to the HOUSE APPROPRIATIONS SUBCOMMITTEE
FOR THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES
REGARDING FY 2011 APPROPRIATIONS FOR
THE BUREAU OF INDIAN AFFAIRS and THE INDIAN HEALTH SERVICE
March 23, 2010**

SUMMARY

Mr. Chairman, I am Ron Suppah, Chairman of the Confederated Tribes of the Warm Springs Reservation of Oregon. I hereby present the following requests for the FY 2011 BIA and IHS appropriations.

- 1) In BIA, reject the proposed absorption of \$19.4 million in fixed cost increases.**
- 2) In BIA Forestry, significantly increase the BIA basic TPA Forestry budget.**
- 3) In BIA Forestry Projects, restore \$1 million to the Timber Harvest Initiative and add \$5 million for Forest Development.**
- 4) In BIA, provide \$5 million for Endangered Species funding, including \$2.3 million for Northern Spotted Owl and marbled murrelet surveys.**
- 5) In BIA Law Enforcement, direct the \$19 million for FBI agents to BIA Criminal Investigations and Police Services and Detention and Corrections for tribal pay increases.**
- 6) In BIA, fund Johnson O'Malley at \$25 million.**
- 7) In IHS, increase Contract Health Care funding by \$100 million.**
- 8) In IHS, require that Contract Support Cost appropriations for new contracts be used for those purposes, and increase Contract Support Costs by \$150 million.**

- 1) In BIA, reject the proposed absorption of \$19.4 million in fixed-cost increases.**

Mr. Chairman, the Confederated Tribes of the Warm Springs Reservation of Oregon urges this Subcommittee to reject the Administration's proposed BIA absorption of \$19.4 million in fixed costs. BIA is already sharply understaffed, caused by having to steadily absorb part of fixed cost increases for many of the past years. Such requirements have heavily eroded not only personnel, but program funding as well. This is doubly unfair for programs that have not received any funding increases in years. One example is the Forestry program. Our Tribe is dependent on timber income for our provision of tribal government services, and forestry personnel are necessary to run a commercial forest. The BIA Forestry program funding has been less than inflation over the past six years, so that today eleven of the twenty-seven full time Forestry positions at Warm Springs are essentially permanently unfunded and unfilled. For Forestry and other BIA programs, this idea that fixed costs can be endlessly absorbed strips programs of their personnel and erodes the provision of services to the tribes. It is not fair or justified, and we ask the Subcommittee not to allow it for FY 2011.

- 2) In BIA Forestry, significantly increase the BIA basic TPA Forestry budget.**

As I previously mentioned, the BIA's basic TPA Forestry budget has steadily and seriously eroded. The Administration's requests for BIA Forestry over the past many years have failed to even keep pace with inflation, so that today, this key trust program, which has a long history of insufficient funding, is only falling further and further behind.

In 1993, an independent review of tribal forests and forestry revealed that Indian forestry funding on a per-acre basis is only one third that of the U.S. Forest Service's National Forest System. In 2003, the second review (Indian Forest Management Assessment Team reviews and reports are statutorily required every ten years) found the same level of disparity – no change for the federal trust management of tribal forests.

From October 2003 to this January, inflation has increased 17%, according to the U.S. Department of Labor. Over the same period, funding for BIA TPA Forestry, which is supposed to fund basic on-going timber harvest and forest administration, has only increased 5.3%. BIA personnel continue to receive cost of living increases, but those mandatory costs are not fully funded and eat up more and more of the Forestry program.

The 2003 IFMAT 2 report identified an annual \$120 million increase as necessary to bring Indian forestry to parity with comparable Forest Service activity. That is a large number. But I urge the Subcommittee to review the report and evaluate the differences between BIA Forestry funding and that for the National Forest System, and, working with the tribes and the BIA, fashion a plan to correct the glaring and insupportable deficiency in BIA Forestry funding.

3) In BIA Forestry Projects, restore \$1 million to the Timber Harvest Initiative and add \$5 million for Forest Development.

In FY 2008, the Administration eliminated \$1 million from the BIA's \$1.8 million Timber Harvest Initiative program, and the funds have not been restored. The Timber Harvest Initiative, carried in BIA Forestry Projects, is intended as flexible funding to supplement timber harvest budgets and manpower at tribal locations with harvest backlogs to provide a needed short-term boost to eliminate the backlog and bring the reservation's forest back into compliance with its management plan. With the BIA regular Forestry budget lagging ever further behind, this flexible funding is more needed than ever for reservations otherwise without sufficient funds to process their harvest. Even if basic BIA TPA Forestry funding receives the substantial increase it requires, the Timber Harvest Initiative will still be needed at its previous full funding of \$1.8 million to address backlogs and expedite sales, particularly when the timber market recovers.

Also in Forestry Projects, we agree with the Intertribal Timber Council that the Forest Development budget be increased by \$5 million to initiate a program to eliminate the one million acre national Forest Development backlog. Much of our 250,000 acre commercial forest at Warm Springs is in need of thinning and replanting, improving the health and resiliency of our principal resource and helping its future value. Moreover, with the current slow timber market, thinning and planting jobs will help keep our forestry crews in work. Finally, the woody biomass produced by thinning operations will help provide fuel to the 20 megawatt biomass electric generation facility we are developing at our sawmill. A \$5 million Forest Development increase, along with the \$1 million requested for the Timber Harvest Initiative, will begin the needed restoration of the Forestry Projects line item, which has fallen from \$18.5 million in FY 2005 to \$17.6 million requested for FY 2011.

4) In BIA, provide \$5 million for Endangered Species funding, including \$2.3 million for Northern Spotted Owl and marbled murrelet surveys.

The Endangered Species budget item is the only BIA funding for tribal Endangered Species Act compliance for the Northern Spotted Owl and marbled murrelet in tribal forests.

Funding for this mandate was initiated in FY 1993 by this Subcommittee. Fourteen years ago in FY 1995, Congress provided \$1.83 million for tribes affected by the Northern Spotted Owl and the marbled murrelet. In FY 2002, Congress provided a total of \$3 million for the BIA's national Endangered Species program. Thereafter, Administration requests drove the appropriation down to the point that, in FY 2007, it only funded one position in the Central Office, and there was zero funding directed to reservation-level ESA work anywhere in the United States.

Since then, Warm Springs deeply appreciates the work of this Subcommittee to restore the BIA's ESA program. We understand the BIA distributes that funding to more than thirty-one locations nationwide, of which Warm Springs receives about \$45,000. Regretfully, that amount can only address a fraction of our ESA needs, and is less than half of what we were receiving for the Northern Spotted Owl back more than twelve years ago, without factoring in inflationary adjustments.

For FY 2011, the Administration is requesting \$1.249 million for BIA Endangered Species mandates on Indian land, but Warm Springs requests that the Subcommittee provide at least \$5 million for the BIA Endangered Species budget nationwide, and that at least \$2.3 million of that be designated for Northern Spotted Owl and marbled murrelet surveys on affected reservations. These species are still listed and ESA compliance is required for our forest management and our timber harvest. I must also note that our Reservation is affected by listed spring Chinook and summer steelhead. Currently on our Reservation, these are pure unfunded mandates, and compliance either goes lacking or other desperately needed services for our community must be reduced. To correct this on a nationwide basis, we roughly estimate that Indian Country easily needs a total of \$5 million in FY 2011 for ESA activities, with \$2.3 denoted for the Northern Spotted Owl and the marbled murrelet.

5) In BIA Law Enforcement, direct the \$19 million for FBI agents to BIA Criminal Investigations and Police Services and Detention and Corrections for tribal pay increases.

Mr. Chairman, the Warm Springs Tribe appreciates the national BIA law enforcement increases provided by the Subcommittee in recent years. While our Tribe directly funds our patrol officers, the BIA funds our detectives and a significant part of our detention personnel. Both of those functions have seen modest increases in the last two years, but not enough to address a law enforcement staffing problem that plagues Warm Springs and many other tribes that contract law enforcement functions – the continual loss of trained personnel due to low pay. Our 638 funding from BIA is simply insufficient to retain trained law enforcement personnel. We work hard to attract new hires, but after a couple of years on the job, when they are trained and familiar with our community, they leave for better paying jobs. Tribes that contract their police functions should be able to pay their police a wage that is at least close to that of their BIA counterpart. In our estimation, in terms of improving day to day law enforcement on the ground on Indian reservations, the \$19 million proposed to go to the Justice Department to hire FBI agents and an equal or greater number of support personnel would be much better spent on BIA Criminal Investigations and Police Services and Detention and Corrections to improve the wages of tribal police. More competitive pay would enable tribes to retain law enforcement personnel they have trained and who have invaluable local experience. That, we believe, is a better law enforcement investment than sending the money to DoJ for more FBI agents, many of whom would be based away from reservations.

6) In BIA, fund Johnson-O'Malley at \$25 million.

Mr. Chairman, for FY 2011, we urge that you fund Johnson-O'Malley with at least \$25 million. While the Bureau of Indian Education request of \$525 million for Elementary and Secondary Education provides direct services to perhaps 15% of Indian children, the only BIA elementary and secondary education funding available for the remainder of Indian school children is Johnson-O'Malley, and this funding has declined from \$16.7 million in FY 2004 to the \$13.4 million requested for FY 2011. Moreover, in recently past years, the Administration has sought to eliminate JOM altogether. JOM funds are essential. They are the only federal education funds subject to tribal direction for tribal students in local public schools. The \$25 million will help make up for the past Administration's reluctance to fund JOM and address the growth in the number of Indian school age children.

7) In IHS, increase Contract Health Services funding by \$100 million.

The Warm Springs Tribe appreciates the Administration's significant increases sought in FY 2010 and now FY 2011 for IHS Contract Health Services (CHS). Unfortunately, the program is in such dire need that we must request an additional \$100 million for FY 2011. With no IHS hospital in the Northwest, tribes in our Region are particularly dependant on CHS funding for at least minimum health care. With medical inflation at 10% a year as reported in the IHS Justification, the \$83.4 million increase proposed for FY 2011, while significant, does not cover much more than inflation, let alone our population growth and the staggering backlogs of unmet need for Contract Health Services. We believe a further addition of at least \$100 million would be an important step toward making up the program's more than \$1 billion in unmet need reported in the Senate Indian Affairs Committee's FY 2011 Views and Estimates letter. It would assure some reduction of the CHS health care rationing that permeates the system today. Finally, it would also be an incremental step toward the additional \$500 million increase recommended in the NCAI FY 2011 Indian Country Budget Request.

8) In IHS, require that Contract Support Costs for new contracts be used for those purposes, and increase Contract Support Costs by \$150 million.

For years, IHS has declined a new 638 proposal from our Tribe because, they say, they have no contract support funds for new contracts. Congress has appropriated funds for new contracts, but IHS cites ambiguous language to thwart our request. So, we ask two things: First, that IHS appropriations language be changed from "may" to "shall" to mandate that appropriations for new or expanded contract support costs "shall" - not "may" - be used for new or expanded contracts. Secondly, we ask that FY 2011 IHS Contract Support Costs be increased by \$150 million, which we believe is in keeping with recommendations by Indian health organizations, to allow ourselves and other tribes to fully participate in the benefits of the PL 93-638.

That concludes my testimony. Thank you.

**TESTIMONY OF
DELORES PIGSLEY, TRIBAL COUNCIL CHAIRMAN
CONFEDERATED TRIBES OF THE SILETZ INDIANS OF OREGON
BEFORE THE
HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED AGENCIES
FY 2011 BUDGET**

**Public Witness Hearing on Native American Issues
March 23, 2010**

My name is Delores Pigsley. I am the Tribal Council Chairman for the Confederated Tribes of the Siletz Indians of Oregon. I am here today to present recommendations on the proposed 2011 Bureau of Indian Affairs (BIA) and Indian Health Service (IHS) appropriations. My remarks speak to the following needs:

- IHS Contract Health Services & Catastrophic Health Emergency Fund programs – a \$183 million increase
- IHS Small Ambulatory Program – restore funding at the 2002 level of \$10 million, including \$2,990,050 to meet staffing and equipment needs at the Siletz Community Health Clinic
- IHS Health Facilities Accounts for Maintenance and Improvement (M&I) program - \$225 million increase
- BIA Johnson O'Malley Act - \$10.8 million increase to fully restore funding
- BIA Adult Education, Adult Vocational Training & Higher Education – increase to \$100 million
- Contract Support Costs for BIA & IHS - add \$86 million and \$149 million respectively

IHS Proposed Budget. The President's request of \$4.4 billion for the Indian Health Service (IHS) budget to support and expand the provision of health care services and public health for American Indians & Alaska Natives marks the second year of remarkable support for our health care programs. Last year's increase of 13.2% was a step in the right direction, following eight years of meager increases that failed to even keep pace with inflation. This year's FY 2011 President request for the IHS includes an 8.7% increase and will come close to maintaining current services. We estimate that an additional \$111 million will be needed to maintain current services for the Indian Health Service. However, there continues to be a tremendous unfunded need for IHS and Tribal health programs.

IHS Contract Health Service (CHS). This program is the most important budget line item in the IHS budget for the Confederated Tribes of Siletz. IHS areas like the Portland Area (with no IHS or tribal hospitals) are 100% dependent on CHS resources to pay hospitalizations and hospital services, including specialty care. Access to Medicare-Like Rates beginning in July 2007 helped alleviate some of the backlog of cases and relax priorities for a short period; however, sufficient inflationary and population growth funding is critical to maintain current

levels of care. Current funding does not begin to address the tremendous backlog of deferred care. Deferred services are those services that, while medically necessary, do not meet current priorities for funding.

Our 2009 CHS program has accumulated a Deferred Services List of 352 medical, dental and mental health requests, totaling an estimated \$2.7 million dollars. Surgeries such as carpal tunnel release, rotator cuff repair, knee surgeries, gastric bypass, inpatient psychological treatment, herniated disc repair and hysterectomies are deferred because CHS cannot afford this level of care. Treatment of orthopedic injuries is one of our greatest challenges: thirty-three requests for various types of MRI's have been deferred, including knees, backs, and shoulders. Because CHS cannot afford to pay for surgeries if indicated by the MRI, they are deferred. The unfortunate reality is that it is less expensive to purchase a cane, walker, crutches, back or neck brace than surgically repair orthopedic injuries.

We support distribution of CHS dollars with a formula that recognizes that some areas are strongly dependent on this funding source. A program increase of \$183 million in Contract Health Services and the Catastrophic Health Emergency Fund is needed to begin to address some of the backlog of deferred cases.

IHS Small Ambulatory Program. Facilities funding for small ambulatory clinics continues to be a high priority. However, the President has not requested funding for the small ambulatory program in FY 2011. In the Northwest the majority of tribes are small, with less than 5,000 members. Small tribes are locked out of the current facility construction priority system and we continue to advocate for alternative methods to build health facilities. The small ambulatory construction program allows this. We were fortunate to receive these funds in FY 2006 in the amount of \$2 million and used it as seed money to replace our aging medical facility. The Tribe is contributing \$6.588 million to construct and equip a new state-of-the-art medical facility. Our medical clinic was originally funded by special congressional appropriation in FY 1989 as a demonstration project.

The Siletz Community Health Clinic was one of the first in the nation to offer health care to both the Indian population and the local non-Indian community and today is one of the very few primary care providers in Lincoln County who accepts new patients who are insured by Medicare or Medicaid. Our small clinic was immediately successful, and in three short years our collection funds were directed toward a facility expansion. Now, nineteen years later we have outgrown our facility and the site it sits on. The Tribal Council's investment into a new, larger facility recognizes the growing need for quality health services in this era of health care reform and escalating insurance premiums.

Our clinic has a proven record of excellence, achieving and maintaining accreditation through the Accreditation Association for Ambulatory Health Care (AAAHC) for more than ten years. Unfortunately, small ambulatory construction projects (SAP) do not qualify for new staffing under the current facility priority system. We have asked our congressional delegation to support a special appropriation for staffing and equipping our new clinic in the amount of \$2,990,050. This committee's support of our request would be appreciated. Unfortunately, small

ambulatory construction projects (SAP) do not qualify for new staffing under the current facility priority system.

IHS Health Facilities Accounts for Maintenance and Improvement (M&I). My final note regarding the IHS budget is a plea for adequate increases in the Health Facilities Accounts for Maintenance and Improvement (M&I). We will soon begin relocating our clinic staff into the new medical facility. Protecting our capital assets and facility from deteriorating due to lack of funding for routine maintenance is one of our highest priorities. The President's request for M&I is \$55.5 million, a slight 3% increase over last year. We recommend an additional \$225 million in FY 2011 to address the current shortfall in facilities maintenance and improvement.

BIA Overall Proposed Budget. Although the President's proposed \$2.6 billion request is a \$3.6 million decrease from the 2010 enacted level, the Tribe is pleased to see there were increases for Tribal Public Safety and Tribal Priority Allocations. However there are still programs which have been historically underfunded that are critical areas of concern for the Siletz and other tribes.

BIA Johnson O'Malley Act (JOM). In 1995 funds for Johnson O'Malley were frozen, limiting funds to a tribe based upon its population count in that year. Tribal Priority Allocation (TPA) for years and has since been reduced to below that level. The Siletz Tribe receives \$83,000 for this program, which does not cover services for children or staff time. In 2009, the Tribe provided 3,416 services to JOM eligible children for tutoring, school supplies, and athletic and scholastic fees. The number of children that receive services from 1995 to now has increased at a greater rate each year. The Tribe serves tribal children in the three largest cities in Oregon—Portland, Salem and Eugene. The FY 2011 Budget Request is \$13,434 million and needs to be \$24.3 million to fully restore funding.

BIA Adult Education, Adult Vocational Training and Higher Education. Through the Bureau of Indian Affairs Self-Governance funds, the Confederated Tribes of Siletz Indians of Oregon provides Adult Education, Adult Vocational Training (AVT), and Higher Education. Every year we see an exponential growth in the number of students with no increase in funding level. In FY 2002, \$30 million was provided for scholarships and adult education. That was unchanged in FY 2009. It is \$34 million in FY 2010 and 2011. Based on our own experience, these budgets should be trebled, with an increase to \$100 million.

In 2009, the Tribe had 198 requests for Adult Education. With a budget of only \$4000, the Tribe caps requests at \$400 and only a small fraction of requests are funded.

With an increase in applications and without additional funding our people are further handicapped and their possibilities are limited. In 1995 the Tribe had 12 AVT and 35 Higher Education students; in 2010 there were 41 AVT and 161 Higher Education students. Available tribal data from 2004 through 2009 shows that the Tribe received \$568,993 for AVT in our BIA Self-Governance Compact. Actual costs to fund AVT students for these six years were \$855,813 a shortfall of \$286,820. We made up the difference using tribal revenues and cutting funds from other tribal programs to meet higher education needs. For that same time period for Higher

Education, our Compact amount was \$707,527, actual costs were \$4,288,755 and the shortfall that the Tribe had to cover was \$3,581,228. The Tribe makes these difficult funding decisions because we view education as one of the best investments we can make for the future of our members.

Our current funding level does not bode well. In 2009 the tribe spent \$170,164 for AVT students; the 2010 Compact funding is at \$140,000. Last year \$635,612 was expended for Higher Education; only \$175,000 available for 2010. In order to stretch funds the Tribe has implemented a cap on funding equivalent to the costs of attending a public university. However this serves to limit scholastic opportunities for tribal members accepted at prestigious out-of-state or private colleges. The lack of BIA funding limits the opportunities our students may have and they are unable to reach potential. To see success as individuals as well as a united people and ensure that no child is really left behind, additional funding is needed.

Contract Support Costs. An increase in contract support costs (CSC) is necessary as tribal governments continue to assume control of new programs, services, functions, and activities under Self-Determination and Self-Governance. Tribes are legitimate government contractors, whose indirect rates are objectively calculated by the Inspector General. Payment of these costs to tribes is required by federal law (ISDEAA) and has been upheld by the U. S. Supreme Court (*Cherokee Nation v. Leavitt*). Each year insufficient funds for contract support costs leaves Tribes to address these imposed shortfalls, resulting in reduced services to tribal members. For Siletz, we have seen tribal child welfare positions go unfilled, while remaining staff carry caseloads two and three times higher than their state counter-parts. In some cases the Tribe has to seek additional grants to fund salaries and services—our Natural Resources clerk has three funding sources. This situation is not limited to BIA and IHS funding.

Without adequate contract support costs funding, the promise of the 1975 Indian Self Determination and Education Assistance Act (ISDEAA) to allow tribes to contract and compact to administer programs formerly administered by these agencies goes unfulfilled. Under contracting and compacting, tribes have increased the quality and level of services to tribal members under these policies. Failure to adequately fund CSC defeats the very programs that appear to be helping improve conditions for American Indians and Alaska Natives. I urge you to fully fund contract support costs for BIA with an increase of \$86 million and for IHS with an increase of \$149 million, as projected by NCAI.

Thank you for allowing me to share my recommendations with you today and I would be happy to answer any questions.

**TESTIMONY OF A.T. STAFNE, CHAIRMAN
ASSINIBOINE AND SIOUX TRIBES
OF THE FORT PECK RESERVATION
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE
ON INTERIOR AND RELATED AGENCIES
MARCH 23, 2010**

On behalf of the Fort Peck Tribes, I am pleased to present testimony on the FY 2011 BIA and IHS Budget. We are a large, land-based tribe. The Fort Peck Reservation encompasses 2.09 million acres of which only 378,000 are tribally owned, with another 548,000 held as individual allotments. The Reservation population is growing and our Tribal enrollment is nearly 12,000 members. Our greatest need is health care, public safety and education. The United States must live up to its trust responsibilities to the Indian people. With the historic action by Congress to extend health insurance to an additional 32 million Americans, we hope that Congress will more closely examine the state of health care in Indian country today. The health conditions of the Nation's first Americans are substandard. My recommendations are as follows:

- Healthcare - Substantially increase funding for Tribal health programs and facilities construction and maintenance so that we may live with dignity;
- Public Safety and Education - Expand Tribal access to Federal public safety programs (police, prosecutors, corrections officers, and Tribal courts) and the facilities to house them so that we may tackle crime and public safety issues in a comprehensive manner. At the same time, expand opportunities for Tribal education to give our children a brighter future and hope;
- Economic Development and Infrastructure - Economic development and infrastructure are interconnected. Address infrastructure needs on Indian reservations by increasing funding for safe drinking and water projects, road construction and road maintenance so that we may keep our communities safe and healthy and promote economic development;
- Transparency - Direct the Bureau and IHS to develop their budgets with meaningful consultation with Tribes to reflect local, Tribal priorities, rather than federal.

The Tribes' unemployment rate on the Reservation is 57% (latest BIA Labor Force Report, 2005). Of our Tribal members who are working, approximately 43% live below the poverty level (BIA Labor Force Report, 2005). Given the enormous unemployment and poverty rates on the Reservation, our needs for both Bureau of Indian Affairs (BIA) and Indian Health Service (IHS) programs and services are substantial.

The United States must assist Tribes address basic governmental services such as safe drinking water, safe streets and communities, and healthcare. More than 20 years ago, an earlier Congress noted that when there is community stability – with core governmental services being met – “Indian tribes are in the best position to implement economic development plans, taking into account the available natural resources, labor force, financial resources and markets.” If the Federal government could provide greater

assistance to us with these core governmental services, our members would be so much better off. Here are a few of our key funding requests which we ask the Congress and the Administration to support. I will address the IHS budget first, then the BIA budget.

I. Indian Health Service

Indian country continues to suffer higher rates of infant mortality, teenage suicide, accident, alcoholism, diabetes, and heart disease when compared with other minorities and the general American population. Yet money directed to health care, especially preventative care – such as routine checkups and health education that clearly improves the quality of life and helps avoid more expensive health care costs in the future – has not been provided to Tribal communities. The Federal government has a trust responsibility to provide health care to Native Americans, an obligation that was paid for by the Native people of this country with millions of acres of land, resources, and our traditional way of life.

A. Facilities Construction and Dialysis Center. There is a desperate need for fully staffed and equipped health facilities capable of providing a full range of medical services. The IHS needs to evaluate and plan the process for new in-patient facilities in Montana, including the urgent expansion of the Fort Peck Tribal Dialysis Unit to 18 stations (from 10) or construction of a new dialysis unit. We are now at capacity, serving 33 patients six days a week, including non-Indian patients. If we cannot expand our services, these patients will have to travel long distances for this life-sustaining care.

B. Contract Health. We recognize the significance of the requested \$84 million increase in Contract Health Care but this increase is inadequate to address the growing health care crisis in Indian country. The Fort Peck Tribes alone need a near doubling of our inadequate Contract Health Care budget – to \$11 million – to meet the growing health demands of our more than 11,000 tribal members. Far too many members are not referred out for Contract Health Care Services that their primary health care professionals determine are medically necessary because we are at level 12. Members are told that no funds are available for Contract Health Services medical services. Patients requiring surgeries are mostly given prescriptions for pain instead of receiving Contract Health Services, which can lead to dire consequences.

I would like to provide an example of the danger of under-funding Contract Health Care. It involves our Vice-Chair, Roxann Bighorn. She suffered an injury to her knee from a fall. After several weeks her knee did not heal. She sought a referral from the IHS to obtain an MRI. Instead the IHS Clinic provided her a prescription for the pain and one for the inflammation. After several weeks on these medications, her kidneys began to falter and she was on the verge of kidney failure. One would think that after all of this she would have risen to the level of care to repair her knee. Unfortunately, that is not the case. This is unacceptable, yet it is typical in Indian Country. Please ensure that Contract Health resources are increased in the FY 2011 budget.

II. Bureau of Indian Affairs

A. The Fort Peck Reservation Rural Water System. The health status of a community is directly related to the quality of water available, which is why the Fort Peck Tribes took the lead in building the Fort Peck Reservation Rural Water System, a system that will provide quality drinking water to the Reservation and surrounding communities. However, we need increased funding for the operation, maintenance and replacement (OM&R) costs associated with the System. For nearly two years, we informed the BIA that our OM&R costs would rise as our water treatment plant came on line. We request \$636,000 for FY 2011, a \$436,000 increase above the President's request.

Congress enacted the Fort Peck Reservation Rural Water System Act of 2000, Public Law 106-382, to ensure safe and adequate municipal, rural and industrial water supply to all of the residents of the Fort Peck Indian Reservation. The law directs that funding for the operation and maintenance of the water system is to be fully paid for by the BIA. The Tribes and the Bureau of Reclamation have completed construction of many components of this \$ project, including the raw water intake facility and will soon complete the water treatment facility. This means that in FY 2011 this Project will be delivering water to the largest towns on the Reservation. This will require additional training and oversight. Unfortunately, OM&R funding has not kept pace with our progress. We need an additional \$436,000 above the President's budgeted amount of \$200,000 to ensure that we can carry-out the additional certification training and oversight, security for the intake and sludge lagoon and water treatment plant operation. We have provided detailed budgets and budget narratives to the BIA explaining our OM&R program needs. The BIA has not adjusted our OM&R funding level to reflect our growing needs.

B. Funding for Law Enforcement and Tribal Court Programs. The need for increased law enforcement and Tribal Courts remains a priority for the Fort Peck Tribes. We greatly appreciate the increases Congress provided last year for public safety programs. These increases, however, are insufficient to fulfill the United States' basic trust responsibility in the areas of health and safety. Our Reservation needs more officers and the resources they require to patrol a large land base. This must be matched with additional resources for Tribal Courts. Congress should ensure that the \$20 million proposed increase in law enforcement funding for FY 2011 translates into more officers on the Fort Peck Reservation. More officers mean more detentions so our Tribes must have increased funding for Tribal Court personnel.

The Fort Peck Tribes' Public Safety Department currently has 22 sworn public safety officers, less than half the number needed to provide adequate coverage for our large Reservation. These officers cannot adequately patrol a 2 million acre Reservation with a population of over 11,000 and a high incidence of substance abuse and violent crimes. A survey of current officers has shown that they will not continue to work for the Tribes under conditions where they must patrol alone, respond to calls without backup, and work longer hours for the same or less pay. I hope that Congress will provide

adequate resources so that Indian communities, especially rural communities like Fort Peck, can recruit and retain public safety officers.

An independent "Gap Analysis" study prepared in 2006 for the BIA's Office of Law Enforcement Services confirms the glaring shortage of law enforcement officers in Indian country. The BIA's Office of Law Enforcement Services divides Indian country into six Districts. Montana is located in District 5. In 2006, District 5 had 87 law enforcement officers, including criminal investigators and telecommunication operators. To reach the recommended level of 3.3 law enforcement officers per 1000 population, District 5 would need to increase its law enforcement personnel by 135 to reach 222 law enforcement officers. Of this amount, 111 or 50% would be police officers. Unlike far less violent non-Indian communities, which have on average 2.9 officers to every 1,000 inhabitants, Indian country averages about 1.3 officers for every 1,000 inhabitants. The Gap Analysis revealed that BIA District 5 is at 39% capacity for law enforcement. That is one of the primary reasons our crime statistics are so high.

On the seven reservations in Montana for the two-year period of 2004-05 (the period for which we have the most complete data), there were 10 murders, 62 forcible rapes, 1,147 aggravated assaults and 529 burglaries. In 2007, the Tribes' Public Safety Department was responsible for addressing 3,956 offenses committed on the Fort Peck Reservation, including 595 violent or serious offenses and 1,004 juvenile offenses. During FY 2009, the Court processed 3,247 criminal cases; 1,512 delinquency/status offenses, 535 civil actions, and 757 family court cases. Indian Country needs more resources in every area of law enforcement from police staffing, tribal courts, detention, and equipment. The Tribes already subsidize the Tribal Courts budget at the level of 73%.

I would be remiss if I did not also call for increased funding for detention facilities, for both operations and construction. The Fort Peck Tribes received a \$1.0 million stimulus grant from the Department of Justice to rebuild our detention facilities. We are excited about this and are now in the process of implementing this grant. However, this new facility will require additional staffing and maintenance funding to ensure that the new facility is properly maintained. By industry standards we will need to double our detention personnel.

C. Education. As President Obama has stated, education is the key to lift people out of poverty and put them on the road to success. But we must have healthy communities to raise our children in and they must be given the resources to overcome the ills of poverty. We need the resources to address our high drop out rates and poor school attendance. There are too few educational, recreational, and constructive social outlets available to our Tribal youth. Without addressing these funding shortfalls we will continue to experience unacceptable levels of juvenile delinquency, substance abuse, suicide and violence.

Thank you for providing me the opportunity to present the views of the Fort Peck Tribes.



NATIONAL INDIAN EDUCATION ASSOCIATION
110 MARYLAND AVE., SUITE 104 WASHINGTON, DC 20002
(202)544-7290 (PHONE), (202)544-7293 (FAX) WWW.NIEA.ORG

Testimony of Patricia K. Whitefoot, President, National Indian Education Association
before the House Subcommittee on Interior Appropriations
on the President's FY 2011 Budget Request
March 23, 2010

Mr. Chairman and Members of the House Subcommittee on Interior Appropriations, thank you for this opportunity to submit testimony on behalf of the National Indian Education Association with regard to the President Obama's FY 2011 budget request.

Founded in 1970, NIEA is the largest Native education organization in the nation with a membership of over 3,000 American Indian, Alaska Native and Native Hawaiian educators, tribal leaders, school administrators, teachers, elders, parents, and students.

Since the release of the 1969 Senate Kennedy Report documenting the problems in Indian education, Indian communities have realized greater participation in and control of programs and schools, including funding for culturally related academic programs. The Indian Education Act of 1972, the 1978 Tribal College Act, the passage of the Native American Language Act and more recently, the 2006 Esther Martinez Language Immersion and Restoration Act have supported the maintenance and promotion of Native language; combined they all represent critical components for creating greater access to culturally relevant education for increasing academic achievement for Native students.

Native education, however, still faces enormous challenges, including severe underfunding. Far too many of our students and schools continue to experience abject failure. A study released this month, February 2010, by The Civil Rights Project at the UCLA Graduate School of Education and Information Studies found that less than 50 percent of American Indian and Alaska Native students in twelve (12) states graduate from high school,¹ a statistic that sadly also applies on a national level and has held steady over the past decade. In addition, schools serving Native students within the Bureau of Education (BIE) system continue to struggle to meet AYP, with only 24.4% of BIE schools meeting AYP, as compared to almost 70% of schools nationally. These statistics only serve to reaffirm the need for systemic reform of education programs and schools serving Native students.

NIEA understands the difficult economic situation our nation confronts; however, Native communities have long experienced the highest rates of poverty, unemployment, morbidity, and substandard housing, education, and health care. In his address to Indian Country and "Principles for Stronger Tribal Communities" President Barack Obama made a commitment to honor "obligations to Native Americans by providing tribes with the educational resources promised by treaty and federal law." Included in President Obama's principles are stronger support and funding for Native language and cultural curriculum, funding for Indian school construction and repairs, and increased funding for tribal colleges' operation and construction. NIEA believes that with President Obama's pledge affirming tribal sovereignty through stronger funding for educational programs, we will begin to see positive changes in Native students' educational attainment.

There are only two educational systems for which the federal government has direct responsibility: the Department of Defense Schools and federally and tribally operated schools that serve American Indian students.

¹ These states are California, Oklahoma, Arizona, New Mexico, Alaska, Washington, South Dakota, Montana, Oregon, North Dakota, Idaho, and Wyoming. Please see Faircloth, Susan C., & Tippeconnic, III, John W. (2010). *The Dropout/Graduation Rate Crisis Among American Indian and Alaska Native Students: Failure to Respond Places the Future of Native Peoples at Risk* at www.civilrightsproject.ucla.edu

The federally supported Indian education system includes 48,000 students, 28 tribal colleges, universities and two BIE post- secondary schools.

Under DOI, BIA's budget has historically been inadequate to meet the needs of Native Americans, consequently; our needs over time have multiplied. NIEA is requesting an amount of \$660.96 million, which includes new program funding and a modest 5% increase over the proposed amount for BIE schools. This includes funding for the elementary and secondary education programs, education management, and allocations for student transportation (\$25 million), and to provide technical assistance to schools to develop their own standards and assessments (\$5 million).

BIE and AYP- For the past three school years, only 30% of BIE schools made AYP goals established by the state in which the school was located. Department of Education statistics indicate that student performance at BIE schools is lower than students at public schools. In response to the lack of performance at BIE schools, DOI has launched the Improving Indian Education Initiative to help BIE students meet AYP under NCLB. NIEA commends BIE for this effort and hopes to see positive gains in BIE student academic achievement as a result and supports funding for the Initiative in the amount **\$28 million, which is consistent with a 5% increase** from funding received in FY 2009 and FY 2008.²

Transportation - NIEA is requesting **increased funding in the amount of \$25 million for school transportation** so schools won't have to use classroom dollars to transport their students. Student transportation impacts student attendance and the ability of school districts to offer educational programs. BIE provides extensive student transportation required of largely rural and widely dispersed school service populations. According to the FY 2009 DOI Budget Request, Departmental Highlights, during the current school year, BIE-funded school buses will travel nearly 15 million miles, often over gravel or dirt roads. As reported by a witness during the session NIEA held in Rapid City, South Dakota, the Little Wound School, located on the Pine Ridge Reservation in South Dakota, runs thirteen bus routes each day during which the buses travel on average, 1,575 miles per school day totaling 267,750 miles annually for "regular bus runs not including activity runs."³ Navajo Nation's Black Mesa Community School Principal Marie Rose testified that "students ride the bus four hours a day. However, when it rains or snows the average bus ride is seven hours a day, if the roads are in drivable condition, which many times they are not."⁴

Indian School Construction Funding - NIEA requests a **\$134.56 million increase** over the FY 2009 omnibus level of \$128.837 million for a total of \$263.4 million in FY 2010 to the BIA for Indian school construction and repair. After FY 2005, the funding levels have dramatically decreased for this critical program. NIEA seeks \$263.4 million because this was the funding level in FY 2005, which was instrumental in reducing the construction and repair backlog. BIA's budget has historically been inadequate to meet the needs of Native Americans and, consequently, Indian school needs have multiplied. The Recovery Act did provide \$450 million to be shared among BIA school construction and repairs, detention facilities, roads, and irrigation projects, however this funding will provide little headway considering the lengthy list of schools waiting to build and repair their facilities.

NIEA is also requesting report language requiring the Department of the Interior report on the status of the schools listed on the BIE construction list, the use of funding for Indian school construction, a timeline on when the current construction list will be updated, and time line for completion of projects currently on the list. In 1997, GAO issued a report, "Reported Condition and Costs to Repair Schools Funded by the Bureau of Indian

² The Improving Indian Education Initiative was launched in FY2008 and funded at \$25 million. The FY 2009 budget request was \$26.4 million. NIEA's \$28 million for this program is included in the \$660.96 million NIEA is requesting for BIE schools.

³ Bureau of Indian Affairs and Bureau of Indian Education Transportation Cost Funding: Hearings before the National Indian Education Association, Rapid City, SD, (July 10, 2008) (testimony of Janice Richards, President, Little Wound School).

⁴ Bureau of Indian Affairs and Bureau of Indian Education: Hearings before the National Indian Education Association, Widow Rock, AZ (August 21, 2008) (testimony of Marie Rose, Black Mesa Community School Principal, Navajo Nation).

Affairs,” that documented an inventory of repair needs for education facilities totaling \$754 million. In 2004 the backlog for construction and repair was reported to have grown to \$942 million.

More recently, in March of 2008, the Consensus Building Institute (CBI) with the U.S. Institute for Environmental Conflict Resolution issued a *Final Convening Report: Negotiated Rulemaking Committee on Bureau of Indian Affairs- Funded Schools Facilities Construction*. CBI reported in their findings of the conditions of the schools that “many schools are ill equipped for the information age,” “security needs and related funding are major sources of concern for many schools,” “aging or poor design may lead to a substandard educational environment,” “operation and maintenance needs are not matched by operation and maintenance annual funding,” and “overcrowding is a major concern and a source of accelerating physical decline.”⁵ Additionally, the report stated in the findings that the Facility Management Information System (FMIS) doesn’t sufficiently allow for educational programming needs, including libraries, adequately sized classrooms and gymnasiums, wiring to allow for technological needs and partitions and noise reducing walls.⁶

In May of 2007, the Office of the Inspector General, Department of Interior, issued *Bureau of Indian Affairs and Bureau of Indian Education: Schools in Need of Immediate Action*, a flash report that describes the conditions at BIE schools that require “immediate action to protect the health and safety of students and faculty.” Although the Inspector General visited thirteen schools as part of their investigation, four schools were highlighted in the flash report -- Chinle Boarding School, Shonto Preparatory School, Keams Canyon School, and the Kayenta Boarding School. In the report, the Inspector General cites deterioration ranging from “minor deficiencies such as leaking roofs to severe deficiencies such as classroom walls buckling and separating from their foundation.” In his conclusion, the Inspector General states that the “failure to mitigate these conditions **will likely cause injury or death to children** and school employees.” This flash report describes the alarming and life threatening situation at BIE schools that the federal government has created in its failure to properly maintain these schools.

The purpose of education construction is to permit BIE to provide structurally sound buildings in which Native American children can learn without leaking roofs and peeling paint. It is unjust to expect our students to succeed academically when we fail to provide them with a proper environment to achieve success.

Indian Education Facilities Improvement and Repair Funding- The continued deterioration of facilities on Indian land is not only a federal responsibility; it has become a liability of the federal government. Old and exceeding their life expectancy by decades, BIE schools require consistent increases in facilities maintenance without offsetting decreases in other programs, if 48,000 Indian students are to be educated in structurally sound schools.

Of the 4,495 education buildings in the BIE inventory, half are more than 30 years old and more than twenty percent (20%) are older than fifty years. On average, BIE education buildings are 60 years old; while, 40 years is the average age for public schools serving the general population. Sixty-five percent (65%) of BIE school administrators report the physical condition of one or more school buildings as inadequate. Although education construction has improved dramatically over the last few years, the deferred maintenance backlog is still estimated to be over \$500 million and increases annually by \$56.5 million. As noted by the House Interior Appropriations Subcommittee in its Committee Report accompanying the FY 2006 Interior appropriations bill, “much remains to be done.” Of the 184 BIE Indian schools, 1/3 of Indian schools are in poor condition and in need of either replacement or substantial repair.

Johnson O’Malley Funding- NIEA and the National Johnson O’Malley Association urge the Congress to fully restore JOM to the FY 2006 enacted level of \$24 million. JOM does meet the focused goal of academic

⁵ The Consensus Building Institute with the U.S. Institute for Environmental Conflict Resolution (March 5, 2008). *Final Convening Report: Negotiated Rulemaking Committee on Bureau of Indian Affairs – Funded School Facilities Construction*, pp. 16-18.

⁶ *Ibid.*, p. 19.

achievement and there are volumes of information available demonstrating its exponentially positive impacts on Native students.

JOM grants are the cornerstone for many Indian communities in meeting the unique and specialized educational needs of Native students who attend public schools. Many Indian children live in rural or remote areas with high rates of poverty and unemployment. JOM helps to level the field by providing Indian students with programs that help them stay in school and attain academic success. Even though JOM funding is extremely limited due to BIA budget constraints, it is being used across the country in a variety of basic as well as innovative ways to assist Indian students to achieve academically.

JOM funding provides vital programs designed to build self-esteem, confidence, and cultural awareness so that Indian students may develop and mature to become productive and contributing citizens within their communities and society respectively. For example, JOM funds help students achieve and succeed by providing such services as: eyeglasses and contacts, resume counseling, college counseling, culturally based tutoring, summer school, scholastic testing fees, school supplies, transition programs, musical instruments, Native youth leadership programs, student incentive programs, financial aid counseling, fees for athletic equipment and activities, caps and gowns, art and writing competitions, etc. Other programs administered by the federal government, such as NCLB funding at the Department of Education, do not allow funding for these types of activities.

In 1995, a freeze was imposed on JOM funding, the freeze prohibits additional tribes from receiving JOM funding and does not recognize increased costs due to inflation and accounting for population growth. NIEA urges that the JOM funding freeze be lifted and that other formula-driven and head count-based grants be analyzed to ensure that tribes are receiving funding for their student populations at a level that will provide access to a high quality education.

Tribal Colleges and Universities- Funding for Tribal Colleges and Universities (TCUs) through the BIE includes 28 TCUs funded under three titles of the Tribally Controlled Colleges and Universities Assistance Act of 1978, and two BIE Post-secondary Institutions. Additionally, the BIE administers a scholarship program for Indian students, many of whom attend Tribal Colleges and Universities. NIEA is very pleased that President Obama's Fiscal Year 2011 budget provides increased funding for American Indian scholarships and forward funding of \$50 million that was enacted during FY10 for the Tribal Colleges and Universities, which will allow them to plan in advance for the next academic year and provide greater financial security. NIEA requests additional funding for FY 2011 budget for the Tribal Colleges and Universities that receive their institutional operations funds through the Bureau of Indian Education. NIEA requests the following levels of funding for the programs under the Tribal College Act: Title I - \$63.2 million, 26 TCUs; Title II – \$13 million, Dine College; Title III – \$2 million, Endowments; Title V - \$10 million, United Tribes Technical College & Navajo Technical College.

Tribal Education Departments- As mandated in many treaties and as authorized in several federal statutes, the education of Indian children is an important role of Indian tribes. Tribal Education Departments (TED) provide tribes with the opportunities to become actively involved in the education of their children. Despite this authorization and several other prior statutes, federal funds have never been appropriated for TEDs. The use of TEDs would increase tribal accountability and responsibility for their students and would ensure that tribes exercise their commitment to improve the education of their youngest members. NIEA is requesting that DOI fund TEDs at \$5 million, which is a very modest request which would yield exponentially positive benefits for Indian students and provide tribes with increased input over the education of their children.

Conclusion

NIEA thanks the Committee for its tremendous efforts on behalf of Native communities. With your support we are hopeful that we can begin to provide the funding for education that Native communities deserve.

**TESTIMONY OF JOE DURGLO, PRESIDENT,
INTERTRIBAL TIMBER COUNCIL, PRESENTED TO THE
HOUSE APPROPRIATIONS SUBCOMMITTEE FOR THE INTERIOR,
ENVIRONMENT, AND RELATED AGENCIES ON
FY 2011 APPROPRIATIONS FOR THE B.I.A. AND DoI WILDLAND FIRE
MANAGEMENT,
MARCH 23, 2010**

Summary

Mr. Chairman, I am Joe Durglo, President of the Intertribal Timber Council and Vice Chairman of the Confederated Salish and Kootenai Tribes. I offer the following recommendations for FY 2011 Indian forestry-related activities in the Bureau of Indian Affairs (BIA) and Department of Interior Office of Wildland Fire Management:

1) In BIA Natural Resources Management, increase BIA TPA Forestry to at least \$31.2 million to bring funding on a par with that provided for similar forestry programs in other federal agencies.

2) In BIA Natural Resources Management Forestry Projects, provide an increase of \$8 million, including a \$5 million increase for Forest Development.

3) In BIA Natural Resources Forestry Projects, provide \$151 million to support 3,125 Native American jobs in Forest Restoration projects that will reduce backlogs for reforestation by 50%.

4) In BIA Natural Resources Management, provide \$4.7 million for ESA to enable timber sales and forest management treatments to proceed.

5) In BIA Economic Development, direct BIA and USFS to develop a program to preserve tribal processing, harvesting, transportation, and professional infrastructure.

6) For DoI Wildland Fire Management: 1) fund preparedness equal to USFS, 2) standardize DoI and USFS fire cost accounting, 3) restore \$44 million to fuels funding and allow its application to all Indian trust forest land, not primarily the WUI, and 4) direct fire 638 indirect costs to the BIA indirect cost pool.

Intertribal Timber Council background.

The Intertribal Timber Council (ITC) is a 34 year old association of 70 forest owning tribes and Alaska Native organizations that collectively manage more than 90% of the 18 million acres of timberland and woodland that are under BIA trust management. These lands provide vitally important habitat for fish and wildlife, cultural and spiritual sites, recreation and subsistence uses, and through commercial forestry, income for the tribes and jobs for their members. In Alaska, the forests of Native corporations and thousands of individual allotments are equally important to their owners. To all our membership, our forests and woodlands are essential to our physical, cultural, and economic well-being, and their proper management is our foremost concern.

1) In BIA Natural Resources Management, increase BIA TPA Forestry to at least \$31.2 million to bring funding levels on a par with those provided for similar forestry programs of other federal agencies.

Mr. Chairman, in past hearings of this Subcommittee, the ITC has testified that both the 1993 and 2003 Reports of the Indian Forest Management Assessment Team (IFMAT, an independent, expert blue ribbon panel) have documented that BIA Forestry, on a per-acre basis, receives only about one third the federal funding of U.S. Forest Service National Forests. According to the 2003 IFMAT Report, an additional \$120 million in annual appropriations is needed for BIA Forestry to receive per-acre funding equality with that provided for management of USFS National Forests.

From FY 2004 through FY 2009, appropriations for the BLM Public Domain Forest Management and U.S. Forest Service Forest Products budgets rose by 26.6% and 25.5%, respectively. Those programs provide basic timber harvest administration for those agencies, much like the BIA's Tribal Priority Allocation Forestry budget. In comparison, during the same period, federal appropriations for BIA TPA Forestry increased only 3.8%. Inflation alone during the period rose 14.1%. The BIA Forestry program's effectiveness has diminished by about 10% during that time as a result. Since then, inflation has further eroded the Forestry program's purchasing power.

It is important to bear in mind that, tribal governments and communities rely on timber for revenue and jobs. Tribal forests remain among the hardest working in the country, generating an estimated 2008 harvest of 500 million board feet, or about two and a half times the per-acre production of the U.S. Forest Service. Tribal forests are crucial to protection of traditional foods, medicines, fuels, soils, water supplies, fish and wildlife habitat, and provide a multitude of other ecological services to benefit tribal and non-tribal communities. The health of forests and woodlands is central to the health of many tribal communities nationwide. But tribal forests are deteriorating due to threats of insects, disease, wildfire, and climate change. The United States has a fiduciary trust responsibility to protect the productivity of tribal forests, but the Administration has chronically failed to request adequate support for management of these crucial trust resources.

For FY 2011, the Administration proposes to hold the BIA TPA Forestry budget flat, and then reduce it by assumed savings of \$135,000 for reduced travel, strategic sourcing, and IT consolidation, and absorb mandatory fixed cost increases from program funds. These reductions represent general budget cuts that will eat away at funds available to support tribal services and protect trust assets.

The ITC urges that the Committee reject the BIA's proposed absorption of fixed cost increases and increase the BIA TPA Forestry to at least \$31.2 million, which reflects the same increases for BIA Forestry as those provided USFS Forest Products and BLM Public Domain Forest Management between FY 2004 and FY 2009.

2) In BIA Natural Resources Management Forest Projects, provide an increase of \$8 million, including a \$5 million increase for Forest Development.

The Administration's FY 2011 BIA Forestry Projects request of \$17.7 million extends the pattern of outright budget decline for BIA Forestry Projects since FY 2005, when \$18.5 million was appropriated. The Forestry Projects budget funds essential forest activities, including management inventories and planning, woodland management, Integrated Resource Management Plans, and Forest Development. The ITC requests that FY2011 funding for BIA Forestry Projects be increased by \$8 million, with \$5 million of that added to Forest Development. Currently, about one-sixth of the Indian trust

commercial forest needs replanting or thinning. In FY 2005, the BIA Forest Development budget treated 58,000 acres; BIA's treatment target for FY 2009 was reduced by more than 10% to 52,000 acres. A \$5 million increase for FY 2011 will enable an additional 30,000 acres to be treated, increase Indian timber harvest and value, improve forest health, contribute to carbon sequestration, and produce woody biomass to advance the Nation's renewable energy initiatives.

3) In BIA Natural Resources Management Forestry Projects, provide up to \$151 million to support 3,125 Native American jobs in Forest Restoration projects.

Mr. Chairman, as the Congress considers various approaches to getting Americans back to work, we propose a \$151 million two-year Indian Forest Restoration program to create 3,125 Indian green jobs and halve the backlog of tribal forests needing replanting, thinning, or restoration.

Indian reservations are experiencing an unemployment rate of approximately 50%. Construction work, the customary approach for trying to generate employment in Indian Country, tends to be expensive and engage a limited number of reservation residents because of the lack of required skill sets. In contrast, our proposed program of putting people to work in the tribal forests is quicker, engages a broader range of job seekers, and yields green benefits both immediately and decades into the future.

Much of the 18 million Indian trust forest acres nationwide need treatments for forest health and restoration, including a backlog of 900,000 acres on the 5.7 million acres of commercial forests held in trust. At an average cost of about \$300 an acre, a \$151 million increase to the BIA Forest Projects budget for Forest Restoration (\$135 million for wages, \$16 million for training, equipment and transportation) would hire and equip 3,125 reservation-based jobs for tribal communities and eliminate about half the backlog (450,000 acres) over a two year period. The project is scalable, but would need to be carried out over a two year period to plan, produce and plant seedlings, and because tribal manpower constraints would preclude completing the projected restoration acreage in a single year. In sum, this project, would –

- Immediately create a labor-intensive environmental restoration effort that would draw upon a wide range of skill and training levels readily available in tribal communities. Any training requirements could be accomplished in less than one week, putting people to work almost immediately.
- Diminish forest fuels, reducing the prospect of catastrophic fire and carbon release,
- Accelerate growth and carbon capture in remaining large and small trees, as well as newly planted trees, and facilitate adaptive climate change forest management,
- Improve the long-term economic value and health of tribal forests while generating biomass for immediate economic utilization, and
- help fulfill the federal trust responsibility to protect the productivity of trust assets.

We urge the Committee to give full consideration to this proposal; it is sorely needed to address problems of high unemployment in tribal communities while helping to restore the health and productivity of Indian forests.

4) In BIA Natural Resources Management, provide \$4.7 million for ESA.

For FY 2010, we ask that BIA Endangered Species be funded at least at \$4.7 million to provide funding for BIA ESA at the same levels as that for BLM (\$21.7

million provided for BLM ESA in FY 2009, representing 8.4 cents per acre for BLM's 258 million acres, applied to BIA's 56 million acres).

5) In BIA Economic Development, establish a program to preserve tribal forest infrastructure.

Today, lumber mills all around the U.S. are disappearing. Tribes, too, are struggling to keep their forest management and milling operations alive. Tribes rely heavily on their forests for revenues and jobs. In several locations, tribal mills remain the last remaining infrastructure to process the materials that must be removed from tribal and non-tribal forests to preserve the health and productivity of the forests. The loss of a local mill, particularly a tribal mill, is devastating to tribal economies and local communities and the forests themselves. We request that the Subcommittee direct the BIA and USFS to work with timber tribes and the ITC to develop a proposal to preserve tribal forestry, mill and associated harvesting, transportation, and personnel infrastructure, exploring such options as low or no-cost loans, training and modernization grants, operating subsidies, and tribal wood product purchase preference. The proposal should be reported back to the Subcommittee, tribes, and agencies within six months following signing of an Interior appropriations bill.

6) For DoI Wildland Fire Management: 1) fund preparedness equal to USFS, 2) standardize DoI and USFS fire cost accounting, 3) restore \$44 million to fuels funding and allow its application to all Indian trust forest land, not primarily the WUI, and 4) direct fire 638 indirect costs to the BIA indirect cost pool.

1) In DoI Wildland Fire Management, we recommend that FY 2011 fire preparedness funding be expanded to reflect per-acre levels comparable to those provided to the USDA Forest Service, a federal forest land manager with comparable management responsibilities.

2) The ITC recommends that USFS and DoI fire cost accounting and business practices be standardized to more accurately and uniformly reflect federal investment in fire management and suppression. Current cost accounting practices result in significant allocation differences between Departments and distort the real cost of the fire management program.

3) The ITC recommends restoring \$44 million to the DoI hazard fuel funds, and that the funds be available to treat all the BIA trust forestlands, not primarily those in the wildland urban interface. Restoration of \$44 million is essential to the protection and management of trust forest resources and the completion of multi-year projects. Maintaining fuels funding equivalency with neighboring agencies such as the USFS will also facilitate the use of cross-boundary and landscape-scale projects.

4) Finally, the ITC requests that Congress direct the BIA to charge 638 indirect costs for tribal wildland fire contracts to the BIA indirect cost pool (and increase funding to the pool to cover this), rather than preparedness funding to improve the effective use preparedness funding and eliminate funding disparities between agencies and departments.

That concludes the ITC FY 2011 testimony. Thank you.

**TESTIMONY OF
ROBERT BENAVIDES, GOVERNOR
PUEBLO OF ISLETA
BEFORE THE HOUSE APPROPRIATIONS COMMITTEE
SUBCOMMITTEE ON INTERIOR AND RELATED AGENCIES
MARCH, 2010**

I. INTRODUCTION

I am Robert Benavides, Governor of the Pueblo of Isleta. Isleta is centrally located in the Rio Grande Valley, thirteen miles south of Albuquerque. With a land area of over 200,000 acres, the Pueblo is one of the largest Pueblos in New Mexico. Currently, there are approximately 4,000 tribal members living in the Pueblo of Isleta. The median age of the Pueblo is 31.1 years with the median family income below \$30,000. We have a young population, many of whom are in or on the verge of poverty, which is why the Pueblo is focused on developing solid programs, infrastructure, and institutions that will be able to meet the needs of our members and community well into the future.

As you know, the national economy was on the brink of a crippling depression in 2009 and all governments are feeling the effects of our economic woes. Tribal governments have similarly faced great challenges in these trying times. Over the past eighteen months, profits from our tribal enterprises have declined significantly. These enterprises are the primary source of funding for our governmental operations and programs.

The Pueblo of Isleta is hopeful that the Administration's Fiscal Year 2011 budget will recognize the growing and significant needs of Indian country. With the exception of certain health service and law enforcement programs, funding for tribal programs in the last two decades has remained essentially flat, and in many instances, has actually gone down because of across-the-board rescissions in programs such as education, health care, social services and natural resources. According to the Fiscal Year 2011 Budget, the President is specifically committed to development of clean energy technology on Tribal land, to increase access to healthcare for American Indians and Alaska Natives, to increase funding to better compensate tribes for the work they perform in managing Federal programs under self-determination contracts and self-governance compacts, to provide funding for increased public safety infrastructure in tribal areas, and to significantly increase funding support for Tribal implementation of environmental programs. We appreciate these Federal efforts, but more remains to be done.

II. INFRASTRUCTURE

A. Water Infrastructure. The Pueblo's domestic water infrastructure is antiquated, dangerous, and in state of disrepair. With our own money, and some assistance from the State of New Mexico, we have begun the process of replacing 15,500 linear feet of asbestos-concrete water mains and lines which serve some 400 households in our main Village. In addition, in the last decade the Pueblo has repaired over 200 leaks and breaks in these antiquated lines. Replacing these lines will result in a

significant reduction in water use ensuring that a valuable natural resource is not unnecessarily squandered. The Pueblo has done extensive pre-construction work on the water main replacement project. We expect to commence construction this spring and complete the project within eighteen months. We are seeking \$500,000 in federal funding through an Environmental Protection Agency State and Tribal Assistance Grant to help offset the cost of this essential project, which will cost in excess of \$1.25 million. The balance of the required funding will be provided by the Pueblo.

B. Education Complex and Long-Term Elder Care Facility. In the area of community development there is a need for tribes to have access to resources that can be utilized to construct governmental buildings. For too many tribes, including Isleta, our programs are operated out of ramshackle buildings—many of which present health hazards such as exposure to mold and asbestos to our employees and the people we serve. The Pueblo has identified a need for a new Education Complex and Long-Term Elder Care Facility.

Our Elder Care program is in the initial stages of development, and will require construction of a new facility that meets Americans with Disability Act standards and that can accommodate overnight stays by elder members of the Pueblo.

The Pueblo's education programs, which are vital to ensuring the well-being of our children, are currently operated out of a dilapidated mobile trailer. The Pueblo is in great need of funding to help develop facilities that are able to serve the significant needs of Pueblo members.

III. LAW ENFORCEMENT AND PUBLIC SAFETY

As a former police officer, public safety and justice needs remain a preeminent concern for me. The Pueblo is sandwiched in between rapidly growing areas, two of which have particularly high crime rates—Albuquerque's South Valley to our north, and the Meadow Lakes Subdivision to our south. While Meadow Lakes may sound nice, it is poverty-stricken and crime-ridden. As previously mentioned, we also have an interstate and several major state roads crossing through our reservation. With these roads come the attendant problems of crime, accidents, and driving while intoxicated offenses. Despite our significant needs and the impacts on our reservation from surrounding communities, we currently have only twenty-five uniformed officers, twenty of whom are also State Police certified. The Pueblo self-funds approximately seventy percent of the cost of our Police and Public Safety Department. In addition, although the Pueblo has a significant need for a tribal prosecutor, a tribal victim's advocate, and additional equipment and technical support, it does not have adequate funding available to provide for these services.

IV. NATURAL RESOURCES

As with other governmental programs, the Pueblo is largely utilizing its own funds to provide much needed forestry services. While the Pueblo's Forestry Management Program is operated through a 93-638 contract with the Bureau of Indian Affairs, it receives, on average, about \$100,000 per year in BIA funding for forestry work. After

three major fires in 2008 (Big Springs, Trigo, and Ojo Peak) that moved, one after the other, from the south towards the Pueblo (the last one stopped, literally, at our border), the Pueblo spent over \$250,000 of its own money to thin approximately 350 acres that were ripe for a catastrophic fire on Pueblo lands. There are at least another 1,400 acres in need of thinning.

As this Subcommittee well knows, investing in proper forest management does not simply make good economic sense in terms of protecting forest resources, it is also necessary as a matter of public safety. If these forests are not properly managed we will continue to have forest fires that endanger peoples' lives and homes.

V. INDIAN HEALTH SERVICE

A. Health services. Addressing the health care needs of Indian people is a critical element to building vital and thriving communities in Indian country. In New Mexico, Indian people rank the highest in nine negative health indicators, including access to prenatal care, rates of diabetes-related death, youth suicide, and motor vehicle and accidental deaths. To address this, Congress must invest real dollars in health services programs, including preventative and mental health care. We appreciate the Administration's efforts to strengthen the Indian health system to improve the quality of health services provided to American Indians and Alaska Natives, and recognize that this year's Budget requests include significant funding increases for Indian Health Service programs.

I should note that the Pueblo has certainly done its part to try to address our community's pressing health care needs. Specifically, we recently spent \$5.46 million of our own money to build a health clinic, including construction of a Behavioral Health Addition at a cost of \$1.3 million (\$550,000 of which was covered by State funds) in an effort to address substance abuse and other behavioral problems within our community.

B. Contract Support Costs. As noted above, the Pueblo of Isleta has invested significant resources to build a state-of-the-art healthcare clinic that provides ambulatory treatment, dental care, preventative care, and a pharmacy. We operate all of these programs through a P.L. 93-638 agreement with the United States, but the United States has not fulfilled its obligation to provide us with 100% of the necessary contract support costs for these programs. These are real costs that the Pueblo incurs for basic administrative expenses related to, among other things, audits, payroll, and insurance.

Today, we receive a percentage of the contract support cost dollars that are due us, but must annually find funds to cover the yearly shortfall. A contract support costs deficit means that fewer children see the dentist, fewer people are screened for cancer, and fewer diabetics receive the care that they need. The Subcommittee should make the commitment to fully fund contract support costs in FY 2011. This commitment would provide virtually every tribally operated health program in the country with a significant increase of funds that will go directly to health services for their people.

C. Contract Health Care. Finally, I join with all of my fellow tribal leaders from across the country to urge the Subcommittee to increase funding for contract health care. Notwithstanding the services provided directly at our clinic, we still have a

significant need to refer patients to outside providers. While our clinic is able to address medical priorities (those emergencies threatening members' lives or limbs) and some preventative care issues, all other issues must be referred to outside providers. An increase in CSC funding would increase the number of patients our clinic could see and the more preventative services it could offer. At present, medical inflationary costs are rising much faster than contract health care appropriations are, so additional funding for these resources is a critical need.

INDEPENDENT REVIEW TEAM

8565 W. Granada Road
Phoenix, AZ 85037
(602) 418-8937 ⇔ (623) 936-8758 fax ⇔ Email: ecoochise@msn.com

**ORAL TESTIMONY OF ELBRIDGE COOCHISE, CHIEF JUSTICE, RETIRED
INDEPENDENT TRIBAL COURTS REVIEW TEAM
BEFORE THE HOUSE INTERIOR, ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS
SUBCOMMITTEE FOR THE FISCAL YEAR 2011
BUREAU OF INDIAN AFFAIRS APPROPRIATIONS
MARCH 23, 2010**

Thank you for the opportunity to testify today and address the serious funding needs that have limited and continue to hinder the operations of Tribal judicial systems in Indian Country. I am the Leader of the Independent Tribal Court Review Team. **I am here today to request that this Committee increases funding for Tribal Courts by at least \$50 million in FY 2011 and maintain the Tribal Courts set-aside.**

Budget Priorities, Request and Recommendations

1. + \$58.4 million authorized under the Indian Tribal Justice Act of 1993, P.L. 103-176, 25 USC 3601 and re-authorized in year 2000 P.L. 106-559 (no funds appropriated to date)
2. +Increase funding for Tribal Courts by 50%
3. Maintain the set-aside for Tribal Courts

We Support an Increase in Funding for:

1. **Hiring and Training of Court Personnel** - Tribal Courts make do with underpaid staff, under-experienced staff and minimal training. (We have determined that hiring Tribal members limits the inclination of staff to move away; a poor excuse to underpay staff.)
2. **Salary Increases for Existing Judges and Court Personnel** – Salaries should be comparable to local and State Court personnel to keep pace with the non-Tribal judicial systems and be competitive to maintain existing personnel
3. **Tribal Courts Need State-of-the-Art Technology** - (software, computers, phone systems, tape recording machines.) Many Tribes cannot afford to purchase or upgrade existing court equipment unless they are awarded a grant. This is accompanied by training expenses and licensing fees which do not last after the grant ends.
4. **Security and Security Systems to Protect Court Records and Privacy of Case Information** - Most Tribal Courts do not even have a full time Bailiff, much less a State-of-the-Art security system that uses locked doors and camera surveillance. This is a tragedy waiting to happen.
5. **Tribal Court Code Development** - Tribes cannot afford legal consultation. A small number of Tribes hire on-site staff attorneys. These staff attorneys generally become enmeshed in economic development and code development does not take priority. Tribes make do with under-developed Codes. The Adam Walsh Act created a hardship for Tribes who were

forced to develop codes, without funding, or have the state assume jurisdiction. (States have never properly overseen law enforcement in a Tribal jurisdiction.)

6. Financial Code Development - We have rarely seen Tribes with developed financial policies. The process of paying a bond, for example, varies greatly from Tribe to Tribe. The usual process of who collects it, where it is collected and how much it is, is never consistent among Tribes.

For the past 4 years, the Independent Court Review Team has been traveling throughout Indian Country assessing how Tribal Courts are operating. During this time, we have completed some 60 court reviews. There is no one with more hands-on experience and knowledge regarding the current status of Tribal Courts than our Review Team.

We have come into contact with every imaginable type of Tribe; large and small, urban and rural, wealthy and poor. What we have NOT come into contact with is any Tribe whose Court system is operating with financial resources comparable to local and State jurisdictions.

There are many positive aspects about Tribal Courts. It is clear that Tribal Courts and justice systems are vital and important to the communities where they are located. Tribes value and want to be proud of their Court systems. Tribes with even modest resources tend to send additional funding to Courts before other costs. After decades of existence, many Tribal Courts, despite minimal funding, have achieved a level of experience and sophistication approaching, and in some cases surpassing, local non-Indian Courts.

Tribal Courts, through the Indian Child Welfare Act, have mostly stopped the wholesale removal of Indian children from their families. Indian and non-Indian Courts have developed formal and informal agreements regarding jurisdiction. Tribal governments have recognized the benefit of having law-trained Judges, without doing away with Judges who have cultural/traditional experience. Tribal Court systems have Appellate Courts, jury trials, well-cared-for Courthouses (even the poorer Tribes), and Tribal Bar listings and fees. Perhaps most importantly, Tribes recognize the benefit of an independent judiciary and have taken steps to insulate Courts and Judges from political pressure. No longer in Indian country are Judges automatically fired for decisions against the legislature.

Our research indicates Tribal Courts are at a critical stage in terms of need. Nationwide, there are 156 Tribes with Courts that receive Federal funding. These Tribes divided a mere \$11.9 million in Federal funds throughout FY-2009. It is the strong recommendation of the Independent Tribal Courts Review Team that the Federal Tribal Courts budget be substantially increased above what is in the President's Budget.

Assessments have indicated that the Bureau of Indian Affairs only funds Tribal Courts at 26% of the funding needed to operate. The remainder is funded by the Tribes. Tribes who have economic development generally subsidize their Tribal Courts. On the flip side, Tribes who cannot afford to assist in the financial operations of the Court are tasked with doing the best they can with what they have even at the expense of decreasing or eliminating services

elsewhere. This while operating at a disadvantage with already overstrained resources and underserved needs of the Tribal members. The assessment suggests that the smaller Courts are both the busiest and most underfunded.

We thank this Committee for the additional \$5 million funding, and the Senate's additional \$5 million (\$10 million) in FY-2010. This will be a big asset once the funding trickles down to the tribal courts. These funds will be added to the base funding of the tribal justice systems.

The grant funding in the Department of Justice is intended to be temporary, but instead it is used for permanent needs; such as funding a Drug Court Clerk who then is used as a Court Clerk with Drug Court duties. When the funding runs out, so does the permanent position. We have witnessed many failed Drug Courts, failed Court management software projects (due to training costs) and incomplete Code development projects. When the Justice funding runs out, so does the Project.

As a directive from the Office of Management and Budget, our Reviews specifically examined how Tribes were using Federal funding. In the last four fiscal years there was only one isolated incident of a 3% questionable expenditure of Federal funds (FY 09). It is speculated that because of our limited resources, we compromise ones due process and invoke "speedy trials" violations to save Tribal Courts money. Everyone who is processed through the Tribal judicial system is afforded their Constitutional civil liberties and civil rights.

We do not wish to leave an entirely negative impression about Tribal Courts. True, Tribal Courts need an immediate, sustained and increased level of funding and there are strong indications that the Courts will put such funding to good use.

There are Tribes like the Fort Belknap Tribe of Montana whose Chief Judge manages both offices and holds Court in an old dormitory that can't be used when it rains because water leaks into the building and the mold has consumed one wall. ***Their need exceeds 100%.***

And, there are Tribes like the isolated Havasupai, located in the bottom of the Grand Canyon. They can only afford a Judge one day a month. Their computers only work sporadically because of the fine layer of dust that appears to cover everything. They have a single, underpaid clerk, who remains dedicated to her job, even though her employment experience means she could make twice as much working out of the Canyon away from home. When she goes to pick up her children at school, the Court must close, because she is the only one there. The flooding of the Canyon has not helped. ***Their need exceeds 100%.***

Tribal Courts have other serious needs. Tribal Appellate Court Judges are mostly Attorneys who dedicate their services for modest fees that barely cover costs for copying and transcription fees. Tribal Courts offer Jury Trials. In many Courts, one sustained Jury Trial will deplete the available budget. The only place to minimize expenses is to fire staff. Many Tribal Courts have Defense Advocates. These advocates are generally law trained and do a good job protecting an individual's rights (including assuring speedy trial limitations are not violated.) However, this is

a large item in Court budgets and if the defense advocate, or Prosecutor, should leave, the replacement process is slow.

I come here today to tell Congress these things. We feel it is our duty to come here on behalf of Tribes to advocate for better funding for Tribal Justice Systems. Tribes ask us to tell their stories. They open their files and records to us and say, "We have nothing to hide". Tell Congress we need better facilities, more detention facilities, more legal advice, better codes... the list goes on and on. But, as we have indicated, it all involves more funding. This Congress and this new Administration can do something great. Put your money where your promises have been.

We support the requests and recommendations of the National Congress of American Indians.

On behalf of the Independent Tribal Court Review Team; Charles D. Robertson Jr. Esq., Honorable Philip D. Lujan, Ralph Gonzales Esq., Myrna Rivera and myself, Thank you.

TESTIMONY OF
Patty Brown-Schwalenberg, Executive Director
CHUGACH REGIONAL RESOURCES COMMISSION
HOUSE APPROPRIATIONS COMMITTEE
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED
AGENCIES

As Executive Director of the Chugach Regional Resources Commission ("CRRC"), located in Alaska, I am pleased to submit this testimony, which reflects the needs, concerns and requests of CRRC regarding the proposed FY 2011 Budget. CRRC respectfully requests that the Subcommittee restore \$500,000 in recurring base funding in the Bureau of Indian Affairs' Trust-Natural Resources Budget. Of this amount, CRRC requests \$350,000 for its core administrative operations, and \$150,000 to restart and continue operations at the Alutiiq Pride Shellfish Hatchery in Seward, Alaska.

I request that this funding be returned to the base Budget due to the difficulties CRRC has had receiving its legally- and contractually-bound funding from the Bureau of Indian Affairs over the last few years. Despite entering into a legally-binding Self-Determination contract with CRRC in 1993, a contract that was subsequently renewed, the BIA has, in recent years, failed to request funding for CRRC in its budget. Recently, we brought suit against the BIA, which resulted in a legally-binding agreement that the BIA would continue to honor its contract with CRRC and continue to fund it. Unfortunately, once again, the BIA failed to request funds in its budget. Because we do not want funding for other BIA programs to suffer, we request that Congress restore CRRC's funding to the base budget to assist the BIA in meeting its legal obligation to provide funding to CRRC.

Commission History. CRRC is a non-profit coalition of Alaska Native Villages. CRRC was organized in 1987 by the seven Native Villages of the Chugach region of Alaska: Tatitlek Village IRA Council, Chenega IRA Council, Port Graham Village Council, Nanwalek IRA Council, Native Village of Eyak, Qutekcak Native Tribe, and Valdez Native Tribe.

CRRC was created by these Villages to address environmental and natural resource issues and to develop culturally-sensitive economic projects at the community level to support the sustainable development of the region's natural resources. The Native Villages choice to create a separate entity demonstrates the level of their concern for environmental and natural resource management and protection – the creation of CRRC ensured that natural resource and environmental issues received sufficient attention and focused funding.

In recognition of the level of concern the Chugach region Villages had, and the importance of CRRC's work, the BIA awarded CRRC a self-determination contract ("self-determination contract") with the Department of the Interior through the Indian Self-Determination and Education Assistance Act ("ISDEAA"), Pub. L. No. 93-368, in 1993, and received \$350,000 as part of the BIA's base budget from FY 1994 through FY 2002. CRRC was able to leverage this funding into almost \$2 million annually to support its several community-based programs. While the base funding of \$350,000 allowed CRRC to maintain core administrative operations, specific projects have received funding from sources such as ANA

Grants, the EVOS Trustee Council, the State of Alaska, the BIA and the Forest Service. With these funds, CRRC has managed to develop and operate several important programs that provide vital services, valuable products, and necessary employment opportunities. These programs include:

Alutiiq Pride Shellfish Hatchery. The Alutiiq Pride Shellfish Hatchery is the only shellfish hatchery in the State of Alaska. A 20,000 sq. ft. shellfish hatchery located in Seward, Alaska, the Alutiiq Pride houses shellfish seed, brood stock and algae production facilities. The Hatchery is operated by CRRC and, when funded, has employed four individuals. Alutiiq Pride is undertaking hatchery nursery and grow out operations research to adapt mariculture techniques for the Alaskan Shellfish industry, as well as conducting scientific research on blue and red king crab as part of a larger federally-sponsored program. As the only shellfish hatchery in the state, CRRC is the only organization in Alaska that can carry out this research. While CRRC planned to expand the production of the Hatchery so that it can support some of CRRC's base operating costs once it becomes self-sustaining, reduction and delays in funding since 2001 has led to the Hatchery slowing down its operations and laying off most of its employees.

Alutiiq Pride has been successful in culturing geoduck, oyster, littleneck clam, and razor clam species, and is currently working to develop culture, nursery, and grow-out techniques for red king crab and blue king crab. This important research cannot continue without base operational funding.

The production and sale of geoducks and razor clam seed – two projects the hatchery is currently working on – has the potential to raise substantial revenue. For example, the production potential from only 2 million seed sales can approach \$400,000, which is a tenfold revenue increase. The shellfish industry in Alaska has not yet grown to the point where seed sales cover the cost of operations, but we expect geoduck seed sales will coincide with the expected growth of the oyster sales industry. Until the Hatchery is self-sufficient in 2-5 years, however, it requires operations and research and development funds if it is to meet the State's growing demand for shellfish seed.

To be able to re-hire hatchery employees and restart and continue to develop these important programs, CRRC is seeking annual funding of \$150,000 for hatchery operating expenses and research and development until the Hatchery is able to become self-sustaining.

Natural resource curriculum development. Partnering with the University of Alaska, Fairbanks, and the National Oceanic and Atmospheric Administration, CRRC is developing and implementing a model curriculum in natural resource management for Alaska Native students. This curriculum integrates traditional knowledge with Western science. The goal of the program is to encourage more Native students to pursue careers in the sciences. So far, there 15 students have completed the program, earning a total of 15 credits each towards a 30-credit certificate in Tribal Management. In addition, we are working with the Native American Fish & Wildlife Society and Tribes across the country (including Alaska) to develop a university level textbook to accompany these courses.

Alaska Migratory Bird Co-Management Council. CRRC is a member of the Council responsible for setting regulations governing the spring harvest of migratory birds for Alaska Natives.

Statewide Subsistence Halibut Working Group – CRRC participates in this working group, ensuring the halibut resources are secured for subsistence purposes, and to conduct harvest surveys in the Chugach Region.

Employment. CRRC has provided employment for 35 Native people in the Chugach Region – an area where Native people face high levels of unemployment. As a result of reduction and elimination of funding in the past few years, CRRC had to lay off 20 employees, including most of our Village employees. This amounts to six families per Village losing this income. In Villages with an average population of 100, this loss of income is a devastating blow to the local community economies. If funding is not restored, we will be unable to rehire our employees, and these 20 families will create a much larger burden on state and federal financial resources. Several of our projects, each of which serve important and innovative goals and provide valuable products and services, have also been put on hold until we have the funding to resume operations and rehire the necessary employees.

Funding History. As mentioned above, CRRC receives its core administrative funding through a self-determination contract with the Department of the Interior. CRRC entered into its original three-year contract in 1993. Under the contract, the BIA agreed to provide annual funding to CRRC to protect the region's natural resources and engage in economic development for the Villages. This contract has subsequently been renewed each time it has come up for renewal.

The ISDEAA requires the Interior to provide *at least* the amount of funding the "Secretary would have otherwise provided for the operation of the programs" the contract supports (the so-called "Secretarial Amount") plus additional contract support costs. 25 U.S.C. § 450j-1(a)(1)-(2). This means that Interior is required to provide CRRC with the same amount that the Secretary of the Interior would have to run the program. The ISDEAA further specifies that the Interior generally cannot reduce the contract funding from one year to the next. Despite this legislative and contractual obligation to provide consistent annual funding to CRRC, the BIA, since FY 2003 has avoided its funding obligation by failing to request funding for CRRC in its budget.

Even though Congress has been helpful in restoring funding for CRRC in the BIA's budget, the BIA has continued to avoid using those funds for CRRC. In FY 2006, the BIA unilaterally reduced CRRC's funding to \$300,000 – a significant cut from our previous level of funding. In FY 2007, Congress again provided \$300,000 for CRRC, but the BIA used the absence of associated targeted spending language to redirect CRRC's funding elsewhere in its budget. Despite repeated appeals to the agency, and despite its contractual obligation to pay, the BIA did not provide CRRC with any funding in FY 2007. As a result, CRRC was forced to take out a bank loan of \$100,000 just to avoid closing its operations entirely. We were forced to lay off many employees, and several of our projects were put on hold because of the lack of funding and the resulting lack of employees.

In FY 2008, the BIA again sought to withhold all funding, and even tried to cut off CRRC's contract, which is illegal under the ISDEAA. CRRC was forced to spend several thousand dollars in legal fees to file suit to obtain its rightful funding for FY 2008. The BIA resolved this lawsuit and agreed that it would continue to provide funding to CRRC, but once again, in FY 2009 and FY 2010, the BIA did not provide for CRRC funding in its budget. We fear that without Congressional assistance in the form of a targeted spending request, we will be forced to sue the BIA every year to obtain the funding that CRRC should rightfully receive pursuant to its contract.

If the BIA does not request funding for CRRC, it must take the funds from its other programs to fulfill its legally-obligated duty to CRRC. Because we do not want to take funds from other BIA programs, we are asking that Congress restore this funding the base Budget to assist the BIA in meeting this legal and contractual obligation.

Our base budget is as follows:

A. Chugach Region Shellfish Mariculture Development <ul style="list-style-type: none"> • Oyster grow-out operations in Tatitlek • Oyster marketing 	<u>Projected Cost</u> \$75,000
B. Nanwalek Sockeye Salmon Development Project <ul style="list-style-type: none"> • Seek funds for disease free water engineering study • Operate smolt out-migration weir 	\$25,000
C. Program Development/Regional Office Operations <ul style="list-style-type: none"> • 2 staff persons/supplies/quarterly board meetings • Biological Professional Assistance • Project Development and Planning • Harvest Surveys • Resource Evaluation and Management 	\$250,000
Total Direct Costs	\$350,000
Indirect Cost (27.7%)	\$96,950
TOTAL PROJECTED BASE BUDGET	\$446,950
Alutiiq Pride Shellfish Hatchery Operations	\$150,000
TOTAL	\$596,950 (\$500,000 requested)

For further information, please contact:

Patty Brown-Schwalenberg, Executive Director
Chugach Regional Resources Commission
6200 Lake Otis Parkway, Suite 201, Anchorage, AK 99507
(907) 562- 6647 or alutiiqpride1@crrealaska.org

In Washington:

Mary J. Pavel or Jennifer L. Vanator
Sonosky, Chambers, Sachse, Endreson & Perry, LLP
(202) 682-0240
mpavel@sonosky.com or jvanator@sonosky.com